

A 1967 law on health and safety in the workplace requires industrial, agricultural, and commercial firms with 10 or more workers to establish a joint management-labor committee on workplace conditions and allows the Government to inspect workplaces and to fine employers for violations. Most firms subject to the law establish such committees but either do not use the committees or do not turn them into effective instruments for improving workplace conditions. Due partly to budgetary constraints, the Ministry has not fielded enough labor inspectors to ensure consistent maintenance of minimum conditions of safety and sanitation, especially outside San Jose. However, ministry programs to hire additional inspections and enhance inspector training programs have resulted in some progress. While workers have the right to leave work if conditions become dangerous, workers who do so may jeopardize their jobs unless they file written complaints with the Labor Ministry.

f. Trafficking in Persons.—The law prohibits trafficking in women for the purpose of prostitution, and in August 1999, a statute went into effect that strengthens this prohibition. There have been only infrequent and isolated cases of trafficking in women in the past (see Section 5). However, in its March submission to the IACHR, Casa Alianza asserted that there was trafficking in women from Colombia, the Dominican Republic, and the Philippines to the country. Local authorities lack the resources necessary to address this problem; there is little in the way of government protection, aid, or educational campaigns for persons who have been trafficked to or from the country. The Ministry of Women's Issues began an awareness campaign in 1999 to educate women about the dangers of trafficking.

CUBA

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander-in-chief of the armed forces. President Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power (ANPP), which meets twice a year for a few days to rubber stamp decisions and policies already decided by the Government. The Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal organ of state security and totalitarian control. Officers of the Revolutionary Armed Forces (FAR), which are led by President Castro's brother, Raul, have been assigned to the majority of key positions in the Ministry of Interior in recent years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution (CDR's). The Government traditionally uses the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out "counterrevolutionary" behavior. During the early 1990's, economic problems reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR's effectiveness. Other mass organizations also inject government and Communist Party control into citizens' daily activities at home, work, and school. Members of the security forces committed serious human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures with it. Foreign companies are required to contract workers only through Cuban state agencies, which receive hard currency payments for the workers' labor but in turn pay the workers a fraction of this (usually 5 percent) in local currency. In 1998 the Government retracted some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by imposing relatively high taxes on self-employed persons. In September the Minister of Labor and Social Security publicly stated that more stringent laws should be promulgated to govern self-employment. He suggested that the Ministry of Interior, the National Tax Office, and the Ministry of Finance act in a coordinated fashion in order to reduce "the illegal activities" of the many self-em-

ployed. According to government officials, the number of self-employed persons as of September was 156,000, a decrease from the 166,000 reported in 1999.

According to official figures, the economy grew 5.6 percent during the year. Despite this, overall economic output remains below the levels prior to the drop of at least 35 percent in gross domestic product that occurred in the early 1990's due to the inefficiencies of the centrally controlled economic system; the loss of billions of dollars of annual Soviet bloc trade and Soviet subsidies; the ongoing deterioration of plants, equipment, and the transportation system; and the continued poor performance of the important sugar sector. The 1999–2000 sugar harvest (just over 4 million tons) was marginally better than the 1998–99 harvest. The 1997–98 harvest was considered the worst in more than 50 years. For the tenth straight year, the Government continued its austerity measures known as the “special period in peacetime.” Agricultural markets, legalized in 1994, provide consumers wider access to meat and produce, although at prices beyond the reach of most citizens living on peso-only incomes or pensions. Given these conditions, the flow of hundreds of millions of dollars in remittances from the exile community significantly helps those who receive dollars to survive. Tourism remained a key source of revenue for the Government. The system of so-called tourist apartheid continued, with foreign visitors who pay in hard currency receiving preference over citizens for food, consumer products, and medical services. Most citizens remain barred from tourist hotels, beaches, and resorts.

The Government's human rights record remained poor. It continued to violate systematically the fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. There were unconfirmed reports of extrajudicial killings by the police, and reports that prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh. The authorities continued routinely to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalist(99 beat ajdor seaches, lawyeeachofhreued, w of gosioons of/TjTD0.09 co35 duringmonsdue eav continin, imprvernment. The Governmepeiideand politidis conntcates ame hper-entr acctes ietjar idered frowerente frfficient. The Governper-

Forillics hperadpsfhtusTheGvtemforhas

frillics hperadpsfhtusTheGvtemforhas

Oliva was taken to the hospital and died a few hours later. No explanation was given for the shooting.

On December 28, 27-year-old Leonardo Horta Camacho was shot and killed. According to some reports, Horta apparently was shot while trying to steal a pig; a policeman reportedly told Horta's girlfriend that he was accidentally shot while struggling with a policeman. Another version was that police thought Horta was one of two escaped prisoners that they were searching for.

Government sanctions against perpetrators were light or nonexistent in the cases of deaths due to excessive use of force that occurred in 1998. There was no information available about the results of any investigations into the 1998 deaths of Wilfredo Martinez Perez, Yuset Ochoterena, and Reinery Marrera Toldedo.

During the year, there were reports that prisoners died in jail due to lack of medical care (see Section 1.c.).

In 1996 the Inter-American Commission on Human Rights (IACHR) issued its final report on the Government's July 1994 sinking of the 13th of March tugboat, which killed 41 persons. The IACHR ordered the Government to indemnify the survivors and the relatives of the victims for the damages caused. At year's end, the Government still had not done so. The Government detained a number of human rights activists to prevent them from participating in a Mass in memory of the victims on the anniversary of the deaths (see Sections 1.d. and 2.c.).

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits abusive treatment of detainees and prisoners; however, there were instances in which members of the security forces beat and otherwise abused human rights advocates, detainees, and prisoners. There were numerous reports of disproportionate police harassment of black youths (see Section 5).

On January 22, Communist Party members attacked members of the Sigler Amaya family in their home in Pedro Betancourt, in the province of Matanzas, in the presence of police officers. The family was concluding a fast for the release of two of their family members, Guido Sigler Amaya and Ariel Sigler Amaya, who were detained on December 15, 1999. After destroying a number of placards, the 10 party members attacked several persons in the family with sticks. Juan Francisco Sigler Amaya was knocked unconscious; Miguel Sigler Amaya suffered a broken rib; Guillermo and Ulises Sigler Gonzalez, the sons of Juan Francisco, received lesser injuries. Party members also beat Gloria Amaya Gonzalez, the grandmother. After the attack, police officers entered the house and arrested all the men in the house. The police did not arrest the attackers. On January 23, the authorities released Juan Rogelio "Yeyo" Gonzalez, Juan Francisco Martinez, and Miguel Sigler Amaya but fined them for disturbing the peace and causing public disorder. At year's end, the Government had not sanctioned any of the Communist Party members for this attack. Police released Guido Sigler Amaya on July 9, and Ariel Sigler Amaya on August 5.

On July 13, Ernesto La O Ramos of the "Maximo Gomez National Civic Movement," reportedly planned to place flowers in a nearby river in commemoration of the death of 41 persons, who died in the sinking of the 13th of March tugboat in 1994. A policeman warned La O Ramos not to go to the river. When he refused, the policeman brought him to the police station. On the way to the police station, La O Ramos greeted a friend, and the policeman reportedly interpreted this as an indication that La O Ramos intended to run away. The officer hit La O Ramos in the face, fracturing his nose and breaking his eye glasses. La O Ramos was cited for disrespect and his trial on August 3 was postponed until further notice. However, on September 29, the judge dismissed the charges against La O Ramos.

The Government continued to subject persons who disagree with it to acts of repudiation. At government instigation, members of state-controlled mass organizations, fellow workers, or neighbors of intended victims are obliged to stage public protests against those who dissent with the Government's policies, shouting obscenities and often causing damage to the homes and property of those targeted; physical attacks on the victims sometimes occur. Police and state security agents are often present but take no action to prevent or end the attacks. Those who refuse to participate in these actions face disciplinary action, including loss of employment.

During the year, there were no massive acts of repudiation directed against the homes of individual human rights activists; however, there were smaller-scale acts of repudiation, known as "reuniones relampagos," or rapid repudiations. These acts are conducted by a small number of persons, usually not from the person's neighborhood, and can last up to 30 minutes. These individuals shout epithets and throw stones or other objects at the target's house. For example, in the early morning on June 21, a small group of persons threw stones, tomatoes, and eggs for about 10

minutes at the home of Yvette Rodriguez Manzanares in Santiago de Cuba. Rodriguez is a member of Followers of Chibas Movement (MSC).

On the night of August 12, unknown persons threw stones at the house of Nelson Parra Polanco, a member of the Democratic Solidarity Party in Manzanillo in the province of Granma. On September 27, just before midnight, an unknown number of persons entered the yard of the house of Isabel del Pino, president of the Association of Humanitarian Followers of Christ the King, and knocked loudly on her door. The crowd also shouted abusive language, such as "Down with the Worm" ("Abajo la gusanera"), "Let the worms leave" ("Que se vayan los gusanos"), etc.

Prison conditions continued to be harsh and life threatening, and conditions in detention facilities also are harsh. The Government claims that prisoners have rights, such as family visitation, adequate nutrition, pay for work, the right to request parole, and the right to petition the prison director. However, police and prison officials often denied these rights in practice, and beat, neglected, isolated, and denied medical treatment to detainees and prisoners, including those convicted of political crimes or those who persisted in expressing their views. Human Rights Watch (HRW) reported that in February 1999, the Government revised the Penal Code to provide that prisoners cannot be subjected to corporal punishment, nor is it permitted to employ any means against them to humiliate them or to lessen their dignity. However, the revised code failed to establish penalties for committing such acts.

The Government regularly violated prisoners' rights by failing to provide adequate nutrition and medical attention. On June 1, APLÓ reported that Marcelo Diosdado Amelo Rodriguez, imprisoned in Boniato, was not receiving medicine for hypertension and circulatory problems. In June the Inter-American Press Association (IAPA) called on the Government to provide medical treatment to two journalists serving prison sentences. The two journalists suffered from hepatitis and serious influenza, and the IAPA feared that one might contract tuberculosis. On July 27, an independent press agency reported the death of common prisoner Lucia Castelua Padron because prison authorities did not transfer her to a hospital to receive treatment for hepatitis. In 1997 the IACHR described the nutritional and hygienic situation in the prisons, together with the deficiencies in medical care, as "alarming." Both the IACHR and the former U.N. Special Rapporteur on Cuba, as well as other human rights monitoring organizations, reported the widespread incidence in prisons of tuberculosis, scabies, hepatitis, parasitic infections, and malnutrition.

On April 10, over 100 prisoners in Prison 1580, located in the Havana City municipality of San Miguel del Padron, protested the lack of medical attention and requested better prison conditions. On May 3, a number of prisoners reportedly rioted in Kilo 7, a prison in Camaguey, and requested better medical treatment, better food, and personal respect. Special police forces apparently attacked the prisoners and terminated the strike, an action that resulted in 20 prisoners being hospitalized.

Prison guards and state security officials also subjected human rights and pro-democracy activists to threats of physical violence; to systematic psychological intimidation; and to detention or imprisonment in cells with common and violent criminals, sexually aggressive inmates, or state security agents posing as prisoners.

There are separate prison facilities for women and for minors.

Prison officials regularly denied prisoners other rights, such as the right to correspondence, and continued to confiscate medications and food brought by family members for political prisoners. Prison authorities also routinely denied religious workers access to detainees and prisoners.

Political prisoners are required to comply with the rules for common criminals and often are punished severely if they refuse. They often are placed in punishment cells and held in isolation. Detainees and prisoners often are subjected to repeated vigorous interrogations designed to coerce them into signing incriminating statements, to force collaboration with authorities, or to intimidate victims.

Vladimiro Roca Antunez, a member of the Internal Dissidents Working Group, remains in prison, and was moved from solitary confinement in early July to a section of the prison for common prisoners. Prison officials denied Roca prison furloughs over weekends, which were granted to the three other members of the group before their release in May (see Section 1.e.).

The authorities took Dr. Oscar Elias Biscet to a prison in Holguin, located about 450 miles from Havana where his family lives, immediately following his 1-day trial in February. On June 7, Biscet was placed in a "punishment cell" and could not receive visitors nor receive food, clothes, or publications. He was not allowed to take any reading materials to the punishment cell, not even the Bible. The authorities allegedly placed Biscet in a punishment cell because he started a 6-hour fast to commemorate the 40 days of fasting that he started on June 7, 1999, in an apartment

on Tamarindo 34 in the 10th of October municipality in Havana. On July 1, Biscet left the punishment cell; however, authorities sent him back to the punishment cell again when he announced his intention to fast on July 13 in honor of the Cubans who died when the 13th of March tugboat sank in 1994. Prison authorities reportedly told Biscet that such actions were disruptive of prison life and could lead to violence. Biscet served 42 days in solitary confinement. In November prison authorities punished Biscet again, this time for protesting inadequate medical attention for 10 common prisoners suffering from diarrhea. Guards allegedly denied him food that his family brought and refused to allow a scheduled family visit. Biscet still was imprisoned at year's end.

From May 24 to June 1, political prisoners Jorge Garcia Perez (Antunez) conducted a hunger strike to protest the lack of medical attention, the arbitrary removal of books and literature, including the Bible, and suspension of family visits. He reportedly received improved treatment from prison officials following the hunger strike.

On August 22, the parents of Jesus Joel Diaz Hernandez reported that he was placed in a punishment cell in the provincial prison of Canaleta in Ciego de Avila. Prison officials did not allow him to have any literature, including the Bible.

Although no longer in solitary confinement in a punishment cell, Francisco Chaviano Gonzalez, who was president of the National Council for Civil Rights in Cuba and who has been imprisoned since 1994 on charges of espionage and disrespect, refuses to see family members until prison officials guarantee that he can receive visits from his family members once a month, in accordance with prison reg-

In December 1999, the authorities arrested Maritza Lugo Fernandez, the vice president of the Democratic November 30 Party and released her only on June 2. Maritza Lugo had been released from jail in August 1999, then was detained various times before her subsequent arrest in December 1999. When Maritza Lugo was released, state security officials told her to prepare the papers for the departure of her family, including her husband, Rafael Ibarra Roque, who still was in jail. However, in December the authorities again arrested Maritza Lugo and detained her until year's end without filing charges against her.

The authorities continued to detain human rights activists and independent journalists for short periods, often to prevent them from attending or participating in events related to human rights issues. The authorities also placed such activists under house arrest for short periods for similar reasons.

On January 13, security personnel impeded a number of human rights activists and independent journalists from attending the trial of independent journalist Victor Rolando Arroyo Carmona. Victor Rolando received a 6-month jail sentence for allegedly hoarding toys. He bought toys to distribute to poor children on January 6. The Government confined Juan Carlos Perez Arencibia, Feliciano Alvarez, and Cecilio Gonzalez to their homes so that they could not attend Arroyo's trial in Pinar del Rio. In 1996 Arroyo Carmona served a 1-year and 9 months' prison term for showing disrespect to authorities.

On January 25, police detained Oswaldo Paya Sardinias, president of the Christian Liberation Movement and Hector Palacios Ruiz, director of the Center for Social Studies. According to Elizardo Sanchez Santa Cruz, the two were detained to prevent a meeting from taking place at Palacios' house regarding "All United," a document that was issued just before the Ninth Ibero-American Summit in November 1999 in Havana. The police also detained a number of other dissidents, including Jose Orlando Gonzalez Bridon, Secretary General of the Confederation of the Democratic Workers Union of Cuba, and an independent journalist; all were released the same afternoon. Police had detained Bridon on January 20 and questioned him about his journalistic activities.

State Security officers detained human rights activists and independent journalists, including Alejandro Chang of the Movement of Fraternal Brothers for Dignity; Nelson Aquiar Ramirez of the Orthodox Party; Maria A. Garcia Delgado of the Movement of 24 February; Carlos Alberto Dominguez of the November 30 Democratic Party; Carlos Rios of Change 2000; Clara Morales Martinez of the July 13 Movement; Angel Polanco, Rafael Peraza, Maria de los Angeles Gonzalez Amaro, and Jose Antonio Fornaris Ramos to make sure they did not attend the 1-day public trial of Dr. Oscar Elias Biscet, Eduardo Diaz Fleitas, and Fermin Scull Zulueta, which took place on February 25 in Havana. In addition, the authorities told many dissidents and independent journalists not to attend. The authorities ordered prominent dissident Jesus Yanez Pelletier not to leave his house, and placed guards outside to ensure compliance. Others who were ordered to stay in their homes were Maria Esther Suarez Valdes of the Confederation of Democratic Workers Union of Cuba; Ileana Gonzalez of the Democratic Party November 30; Ruben Camalleri of the Movement of February 24; Carlos Raul Jimenez Carrero of Nationalist Agenda; and Odilia Collazo Valdes of the Pro-Human Rights Party of Cuba. The authorities placed independent journalists Omar Rodriguez Saludes and Jorge Olivera Castillo under 1-day house arrest.

On May 24, security police detained four human rights activists who were on their way to deliver a letter requesting better prison conditions for political prisoners to prison authorities in Vedado, Havana. The letter also protested Dr. Biscet's incarceration 450 miles away from his family. Police detained Armando Dominguez and Iosvani Aguilar Camejo of the Movement of Fraternal Brothers for Dignity, and Alejandro Chang Cantillo and Marlon Cabrera of the Brotherly Civic Movement. On October 23, the police released Marlon Cabrera Rivero and Alejandro Chang Cantillo; they released Armando Dominguez Gonzalez on October 20 and Iosvani Aguilar Camejo on October 30. The authorities also fined Aguilar Camejo about \$30 (600 pesos) for disturbing the peace in the prison.

On June 29, the police arrested Rafael Iturralde Bello, president of the Libertad independent agricultural cooperative in Santiago de Cuba, outside a bus station in Pinar del Rio. They arrested Iturralde before he could meet with other members of the National Association of Independent Farmers of Cuba in Pinar del Rio. They released Iturralde 24 hours later and placed him on a bus to Santiago de Cuba.

As in previous years, on July 13, police prevented activists from commemorating in any way the 1994 incident in which 41 persons drowned when the Border Guard sank the 13th of March tugboat (see Section 1.a.). Beginning on July 12, police detained activists in a number of provinces, and ordered others to remain in their homes on July 13. The authorities told dissidents that if they did not obey they

would be prosecuted for illegal assembly and distribution of enemy propaganda, or for incitement to rebellion. In Santiago de Cuba, more than 80 state security agents reportedly attacked about 30 dissidents who had thrown bouquets of flowers into the ocean in honor of those who died in 1994. State Security agents allegedly also beat women in the group. Security agents accused the dissidents of being thieves and delinquents (see Section 2.b.).

On July 21, the authorities also prevented activists in Santiago de Cuba, including independent journalist Luis Alberto Rivera and Fidel Soria Torres and Ivette Rodriguez Manzanares of the MSC, from attending the trial of Nestor Rodriguez Lobaina and Eddy Alfredo Mena Gonzalez of the Movement of Cuban Youth for Democracy. The two men were charged with disrespect, causing damages, and causing public disorder. On August 15, the court gave Rodriguez a 6-year prison sentence and sentenced Mena to 5 years in prison (see Section 1.e.).

On September 8, security police ordered a number of human rights activists not to attend the annual procession in honor of the Virgin of Charity (see Section 2.c.).

The Penal Code includes the concept of "dangerousness," defined as the "special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of socialist norms." If the police decide that a person exhibits signs of dangerousness, they may bring the offender before a court or subject him to therapy or political reeducation. Government authorities regularly threaten prosecution under this article. Both the U.N. Commission on Human Rights (UNCHR) and the IACHR have criticized this concept for its subjectivity, the summary nature of the judicial proceedings employed, the lack of legal safeguards, and the political considerations behind its application. According to the IACHR, the so-called special inclination to commit crimes referred to in the Criminal Code amounts to a subjective criterion used by the Government to justify violations of the rights to individual freedom and due process of persons whose sole crime has been an inclination to hold a view different from the official view.

On August 8, police summoned Manuel Lantigua Dominguez, a member of the dissident Council of Cuban Workers (CUTC) in the province of Guantanamo, to the local police office. After taking his photograph and fingerprints, the police told Lantigua that a case on charges of dangerousness would be opened against him.

The Government also used exile as a tool for controlling and eliminating the internal opposition. AI has noted that the Government detains human rights activists repeatedly for short periods and threatens them with imprisonment unless they gave up their activities or left the country. The Government used these incremental aggressive tactics to compel Ruben Ruiz Armenteros, vice president of the Human Rights Party of Cuba, to leave the country on September 28. On October 26, Orestes Rodriguez Horruitiner, president of the MSC, also left the country. Rodriguez had been imprisoned from July 1997 to April 7.

The Government also has pressured imprisoned human rights activists and political prisoners to apply for emigration and regularly conditioned their release on acceptance of exile. HRW observed that the Government routinely invokes forced exile as a condition for prisoner releases and also pressures activists to leave the country to escape future prosecution.

AI has expressed particular concern about the Government's practice of threatening to charge, try, and imprison human rights advocates and independent journalists prior to arrest or sentencing if they did not leave the country. According to AI, this practice "effectively prevents those concerned from being able to act in public life in their own country."

e. Denial of Fair Public Trial.—The Constitution provides for independent courts; however, it explicitly subordinates the courts to the ANPP and the Council of State, which is headed by Fidel Castro. The ANPP and its lower level counterparts choose all judges. The subordination of the courts to the Communist Party, which the Constitution designates as the superior directive force of the society and the State further compromises the judiciary's independence. The courts undermine the right to a fair trial by restricting the right to a defense and often failed to observe the few due process rights available to defendants.

Civil courts exist at municipal, provincial, and supreme court levels. Panels composed of a mix of professionally certified and lay judges preside over them. Military tribunals assume jurisdiction for certain counterrevolutionary cases.

The law and trial practices do not meet international standards for fair public trials. Almost all cases are tried in less than a day; there are no jury trials. While most trials are public, trials are closed when there are alleged violations of state security. Prosecutors may introduce testimony from a CDR member about the revolutionary background of a defendant, which may contribute to either a longer or shorter sentence. The law recognizes the right of appeal in municipal courts but limits it in provincial courts to cases such as those involving maximum prison terms

or the death penalty. Appeals in death penalty cases are automatic. The death penalty ultimately must be affirmed by the Council of State.

Criteria for presenting evidence, especially in cases of human rights advocates, are arbitrary and discriminatory. Often the sole evidence provided, particularly in political cases, is the defendant's confession, usually obtained under duress and without the legal advice or knowledge of a defense lawyer. The authorities regularly deny defendants access to their lawyers until the day of the trial. Several dissidents who have served prison terms reported that they were tried and sentenced without counsel and were not allowed to speak on their own behalf. AI concluded in 1996 that "trials in all cases fall far short of international standards for a fair trial."

The law provides the accused with the right to an attorney, but the control that the Government exerts over the livelihood of members of the state-controlled lawyers' collectives—especially when they defend persons accused of state security crimes—compromises their ability to represent clients. Attorneys have reported reluctance to defend those charged in political cases due to fear of jeopardizing their own careers.

In January a Havana court reaffirmed the 4-year prison term for dangerousness imposed in 1998 on Lazaro Constantin Duran, leader of the Friends Club of an independent teachers' organization. On January 18, a court sentenced independent journalist Jesus Joel Diaz Hernandez to 4 years imprisonment for dangerousness (see Section 2.a.).

On February 25, diplomats and members of the international press attended the 1-day trial of Dr. Oscar Elias Biscet, president of the Lawton Foundation for Human Rights. Biscet was convicted of disrespect, creating a public disturbance by hanging a Cuban flag upside down during a press conference in his home, and encouraging others to violate the law. In his opening statement, Biscet denied all charges against him, and insisted that he was a nonviolent activist for human rights. The three judge panel heard six witnesses and listened to the opening and closing arguments of both the prosecutor and defense attorney. The court sentenced Biscet to 3 years in prison (less than the 7 years the prosecution sought). The same court sentenced Fermin Scull Zulueta to 1 year in prison, and released Eduardo Diaz Fleitas. The latter two men were charged with insulting national symbols, creating a public disturbance, and instigating a crime. The authorities transferred Biscet to the Cuba Si prison in Holguin (see Section 1.c.). The authorities detained and prevented human rights activists and independent journalists from attending the trial (see Section 1.d.).

On July 13, prison authorities accused Egberto Angel Escobedo Morales, serving a 24-year sentence for the crimes of espionage, propagating enemy propaganda, and theft of the additional crimes of disrespect and causing disturbances in a penitentiary. The prosecution requested an additional 20-year sentence.

On July 21, in Santiago de Cuba, Nestor Rodriguez Lobaina and Eddy Alfredo Mena Gonzalez of the Movement of Cuban Youth for Democracy went on trial for disrespect, causing damages, and causing public disorder. On August 15, Rodriguez received a 6-year prison sentence, while Mena was sentenced to 5 years in prison.

During the year, three of the four members of the Internal Dissident Working Group received conditional release from prison—Felix Antonio Bonne Carcasses, on May 12; Martha Beatriz Roque Cabello, on May 15; and Rene de Jesus Gomez Manzano, on May 23. Police arrested the four persons in July 1997 for expressing peacefully their disagreement with the Government. In September 1998, they were charged with acts against the security of the state in relation to the crime of sedition. Despite the prosecution's demand for sentences from 5 to 6 years, Felix Bonne and Rene Gomez received a 4-year jail sentence while Martha received a 3-1/2 year sentence. The fourth member of the group, Vladimiro Roca Antunez, received a 5-year sentence. In early July, Roca was moved from solitary confinement to a section of the prison for common prisoners; he remained in prison at year's end.

Human rights monitoring groups inside the country estimate the number of political prisoners at between 300 and 400 persons. On July 16, the Cuban Commission on Human Rights and National Reconciliation reported that 314 persons were in prison for political reasons. The authorities have imprisoned persons on charges such as disseminating enemy propaganda, illicit association, contempt for the authorities (usually for criticizing Fidel Castro), clandestine printing, or the broad charge of rebellion, which is often brought against advocates of peaceful democratic change.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Although the Constitution provides for the inviolability of a citizen's home and correspondence, official surveillance of private and family affairs by government-controlled mass organizations, such as the CDR's, remains one of the most pervasive and repressive features of daily life. The State has assumed the right to interfere

in the lives of citizens, even those who do not actively oppose the Government and its practices. The mass organizations' ostensible purpose is to improve the citizenry, but in fact their goal is to discover and discourage nonconformity. Citizen participation in these mass organizations has declined; the economic crisis both has reduced the Government's ability to provide material incentives for their participation and has forced many persons to engage in black market activities, which the mass organizations are supposed to report to the authorities.

The authorities utilize a wide range of social controls.

The Interior Ministry employs an intricate system of informants and block committees (the CDR's) to monitor and control public opinion. While less capable than in the past, CDR's continue to report on suspicious activity, including conspicuous consumption; unauthorized meetings, including those with foreigners; and defiant attitudes toward the Government and the revolution.

The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. The Department of State Security often reads international correspondence and monitors overseas telephone calls and conversations with foreigners. The Government also monitors domestic phone calls and correspondence.

In January the authorities dismissed Teidy Betancourt Gonzalez from her job as an assistant teacher in a kindergarten because her husband, Ruben Perez Pons, a member of the Democratic Action group in Sancti Spiritus, is a dissident. On April 29, the authorities expelled from his workplace Jose Carlos Malina Gonzalez, conditionally released from jail, because he refused to participate in a government-sponsored public event for the return of Elian Gonzalez Brotons. The administrator of Molina's workplace threatened to inform the police so that he could be returned to prison.

In August Romilio de Jesus Garcia Mauri, member of the Club of Prisoners and Former Political Prisoners, was convoked three times to appear at the local police station in Santiago de Cuba for possible drug trafficking. Every time Mauri arrived at the police station, he was asked to submit a writing test for examination. On August 10, police detained Yuri Tier Pineiro on the La Victoria beach in the province of Sancti Spiritus and interrogated him for 3 days about the political activities of his father, Marcelo Tier Perez, and his older brother Marcelo Tier Pineiro, members of the Democratic Solidarity Party. He himself is not a political activist.

There were numerous credible reports of forced evictions of squatters and residents who lacked official permission to reside in Havana (see Section 5).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Government does not allow criticism of the revolution or its leaders. Laws against antigovernment propaganda, graffiti, and disrespect of officials carry penalties of between 3 months and 1 year in prison. If President Castro or members of the National Assembly or Council of State are the objects of criticism, the sentence can be extended to 3 years. Charges of disseminating enemy propaganda (which includes merely expressing opinions at odds with those of the Government) can bring sentences of up to 14 years. In the Government's view, such materials as the Universal Declaration of Human Rights, international reports of human rights violations, and mainstream foreign newspapers and magazines constitute enemy propaganda. Local CDR's inhibit freedom of speech by monitoring and reporting dissent or criticism. Police and state security officials regularly harassed, threatened, and otherwise abused human rights advocates in public and private as a means of intimidation and control.

The Constitution states that print and electronic media are state property and cannot become in any case private property. The Communist Party controls all media—except a few small church-run publications. Even the church-run publications, denied access to mass printing equipment, are subject to governmental pressure. In particular, the Government publicly criticized the publisher of the magazine Vitral, a publication of the diocese of Pinar del Rio, twice during the year; President Castro had criticized publicly an article that the magazine printed in 1999. The Government reported extensively on Vitral articles and on the publisher's activities and contacts, which it labeled as counterrevolutionary. As of October, Vitral had not been shut down, but as of year's end, the Church was still being subjected to considerable pressure to avoid political topics.

The Government controls all access to the Internet, and all electronic mail messages are subject to censorship. Citizens do not have the right to receive publications from abroad, although newsstands in hotels for foreigners and certain hard currency stores sell foreign newspapers and magazines. The Government continued to jam the transmission of Radio Marti and Television Marti. Radio Marti broadcasts generally overcame the jamming attempts on short-wave bands, but its me-

dium-wave transmissions are blocked completely in Havana. Security agents subjected dissidents, foreign diplomats, and journalists to harassment and surveillance, including electronic surveillance.

All media must operate under party guidelines and reflect government views. The Government attempts to shape media coverage to such a degree that it not only continued to exert pressure on domestic journalists but also kept up a steady barrage of pressure on groups normally outside the official realm of control, such as visiting international correspondents. Fidel Castro continued to criticize publicly the international press, often by name.

Resident foreign correspondents reported that the very high-level of government pressure experienced in 1999, including official and informal complaints about articles, threatening phone calls, and lack of access to officials, continued throughout the year. The Government strengthened its ability to control the foreign press by ceasing to issue multiple entry visas to journalists from foreign press organizations who reside in Havana. Such journalists are now required to apply for a new visa each time they leave the country.

In August Radio Moron, a small government-run radio station in the central part of the country, dismissed the host of one of its programs after he read on the air a poem by Raul Rivero (founder and director of the Cuba Press news agency).

The 1999 Law to Protect National Independence and the Economy outlaws a broad range of activities as undermining state security, and toughens penalties for criminal activity. Under the law, anyone caught possessing or disseminating literature deemed subversive, or supplying information that could be used by U.S. authorities in the application of U.S. legislation, is subject to fines and to prison terms of 7 to 20 years. While many activities between Cuban nationals and foreigners possibly could fall within the purview of this new law, it appears to be aimed primarily at independent journalists.

This law increased the penalties and broadened the definitions of activities covered by the 1996 Cuban Dignity and Sovereignty Act, which already proscribed citizens from providing information to any representatives of the U.S. Government, or seeking any information from them, that might be used directly or indirectly in the application of U.S. legislation against the Government. This includes accepting or distributing Publications, documents or other material from any origin, which the authorities might interpret as facilitating implementation of such legislation.

The Government continued to threaten independent journalists, either anonymously or openly, with arrest and conviction based on the new law. Some journalists have been threatened repeatedly since the law took effect. Independent journalists noted that the law's very existence had some effect on their activities and increased self censorship, and some noted that it is the Government's most effective tool to harass members of the independent press.

In February 1999, National Assembly President Ricardo Alarcon told foreign correspondents that under the new law, even reporters working for accredited foreign media could be sentenced to up to 20 years in prison if the information they publish is deemed to serve U.S. interests.

The Government continues to subject independent journalists to internal travel bans, arbitrary and periodic detentions (overnight or longer), harassment of family and friends, seizures of computers, office and photographic equipment, and repeated threats of prolonged imprisonment (see Sections 1.d., 1.f., and 2.d.). Independent journalists in Havana reported that threatening phone calls and harassment of family members continued during the year. More than 20 independent journalists experienced varying degrees of harassment, and certain individuals appear to have been singled out. Since January dozens of reporters were repeatedly detained, some for several days. Authorities also placed journalists under house arrest to prevent them from reporting on conferences sponsored by human rights activists, human rights events, and court cases against activists.

Family members have lost their jobs because they refuse to condemn or inform on these so-called counterrevolutionaries (see Section 1.f.). Acts of intimidation have been reported less frequently since 1999. However, police have tried more often to prevent independent journalists from covering so-called sensitive events.

In January an unidentified assailant attacked Mary Miranda, of Cuba Press, and beat her unconscious.

In February police briefly detained Edel Garcia, Director of the Centro Norte del Pais agency, as he left church after attending a memorial Mass for the Brothers to the Rescue pilots who were aboard planes that the air force shot down in 1996. Police frequently stop Garcia on fabricated traffic violations. Garcia's wife receives weekly death threats and his teenage daughters are harassed with increasing frequency. Garcia has a criminal trial pending, but the date and the charges are as yet not known. Charges that have been mentioned include: insulting the President,

illicit association, collaboration with the enemy, spreading false news, and espionage.

In February security officials ordered several journalists to remain home and not to attend the trial of a member of the opposition. Jose Antonio Fornaris, of Agencia Cuba Verdad, refused to stay home; the police detained him at the local jail for the entire day.

In March the University of Havana expelled the daughter of Maria de los Angeles Gonzalez Amaro, Director of the Union de Periodistas y Escritores Cubanos Independientes, after a university dean warned her not to follow in her mother's footsteps. In September on two occasions, security officials intimidated Mrs. Gonzalez in her home.

In April the Government's Juventud Rebelde newspaper accused Raul Rivero, Tania Quintero, Manuel David Orrio, Lucas Garve, and Vicente Escobal of being counterrevolutionary leaders.

In May the authorities went to the home of Manuel Vasquez Portal, Director of Agencia Decoro, who was scheduled to speak that day on "Globalization and Culture" at the Centro de Estudios Sociales. Two officials from State Security threatened Vasquez with detention if he gave his speech. State Security officials also visited 17 other persons and told them not to attend the speech.

In July the authorities confiscated equipment (video cameras, camera, and cassette recorders) and all office supplies from the Agencia Yara in Bayamo.

In August police detained Ricardo Arabi Jimenez, director of Agencia Yara, for attending a meeting about organizing the first congress of independent trade unions by the CUTC, scheduled to be held in October (see Section 6.a.).

In September Dorca Cespedes, Havana Press reporter, was told by the director of her daughter's day care center, that the toddler could no longer attend. The authorities had instructed the director not to care for the child due to the mother's counterrevolutionary activities.

In September the security police took octogenarian Nestor Baguer, independent journalist and founder of the original Independent Press Agency of Cuba, to a private home in Havana where he was questioned about his activities. The authorities also made calls to contacts of Baguer to invite them to a meeting at his home. The authorities then went to Baguer's home to inform him that they knew about the alleged meeting.

In September individuals posing as vandals, but thought to be security officials, threw rocks at the home of Juan Tellez, Agencia Libertad.

In September the authorities jailed Joaquin Cabeza de Leon in Camaguey because he helped to organize a literary award ceremony.

In September police arrested brothers Jesus and Jadir Hernandez Hernandez, of Havana-Press, in Guines, and charged them with illegal trafficking in persons and collaboration with a foreign diplomatic mission. For several weeks, both men had been disseminating information about the unification of several dissident groups in Havana Province. In October authorities again threatened the brothers and their family members.

In October a security official showed a photograph to Dr. Jose Luis Garcia, Agencia Libertad, in which Garcia was conversing with a man that he had just casually met. Garcia was told that the man was a member of state security and that the photograph would be shown to other members of the opposition to make it look like Garcia was actually collaborating with state security.

In October the police detained Jesus Alvarez Castillo and Pedro Duque, Cuba Press correspondents from Ciego de Avila, in front of the office of Cuba Press and accused them of involvement in a murder. The authorities later dismissed the accusation as a case of mistaken identity.

The authorities often confiscate equipment when arresting journalists, especially photographic and recording equipment. It is now possible to buy a fax machine or computer, payable in dollars; if a receipt can be produced, this equipment is usually not confiscated. Photocopiers and printers are impossible to find on the local market, which makes them a particularly valuable commodity for journalists. A fax machine that a friend brought from overseas for journalist Reinaldo Cosano Alen, arrived damaged and was not usable after 10 days in Customs. Equipment lost due to burglary also has been reported. In January unidentified persons entered the home of journalist Juan Gonzalez Febles and stole his tape recorder, recorded tapes, and several articles. In August a couple posing as employees of Cuba Press stole all the documents, books, and office materials collected by the agency after the owner of the premises had asked the agency to move due to pressure from the police.

Outside the capital of Havana, independent journalists reported that detentions, threats, and harassment are more severe than in the capital.

AI, HRW, the IAPA, Reporters Sans Frontieres (RSF), and the Committee to Protect Journalists repeatedly called international attention to the Government's continued practice of detaining independent journalists and others simply for exercising their right to free speech (see Section 1.d.).

In June the IAPA called on the Government to provide medical treatment to two independent journalists serving prison sentences. Joel de Jesus Diaz, in prison in Ciego de Avila, was suffering from hepatitis and Manuel Antonio Gonzalez Castellanos in Holguin was suffering from severe influenza and possibly tuberculosis. The IAPA also called for the release of independent journalists Victor Rolando Arroyo and Bernardo Arevalo Pardon, both of whom are serving prison sentences (see Section 1.c.).

In July police detained Ricardo Gonzalez, RSF correspondent, for 6 hours as they tried to coerce him to collaborate with them. In August French journalist Martine Jacot, sent by RSF to the country, was in contact with a dozen independent journalists in Havana and Ciego de Avila. She also met with the families of two of the three journalists currently in prison. On August 17, just before she was to leave the country, security police arrested her, questioned her at the Havana airport, and seized a video camera, two videotapes, and documents. The police never returned this equipment to RSF.

In August the authorities detained three Swedish journalists and later expelled them from the country. The journalists had met with independent journalists and had organized a seminar for two groups of independent journalists. The authorities said that the journalists, including Martine Jacot, violated immigration laws by traveling on tourist visas, instead of traveling on visas issued to journalists.

Distribution of information continues to be controlled tightly. Importation of foreign literature is controlled, and the public has no access to foreign magazines or newspapers. Leading members of the Government have indicated that citizens do not read foreign newspapers and magazines to obtain news because they do not speak English and they have access to the daily televised round tables on issues with which they need to concern themselves. Access to computers is limited. E-mail use is growing slowly as the Government incrementally allows access to more users; however, the Government generally controls its use, and only very few persons or groups have access. The Government opened a national gateway to some journalists, artists, and municipal-level youth community centers, but the authorities still restrict the types and numbers of international sites that can be accessed.

Independent journalist Reinaldo Cosano Alen received a letter from Customs informing him that two magazines were confiscated for being counterrevolutionary. Customs also confiscated several editions of the *Cartas de Cuba* magazine that were addressed to independent journalist Tania Quintero Antunez.

The Government officially prohibits all diplomatic missions in Havana from printing or distributing publications, particularly newspapers and newspaper clippings, unless these publications deal exclusively with conditions in a mission's home coun-

b. Freedom of Peaceful Assembly and Association.—Although the Constitution grants limited rights of assembly and association, these rights are subject to the requirement that they may not be “exercised against the existence and objectives of the Socialist State.” The law punishes any unauthorized assembly of more than three persons, including those for private religious services in a private home, by up to 3 months in prison and a fine. The authorities selectively enforce this prohibition and often use it as a legal pretext to harass and imprison human rights advocates.

The Government’s policy of selectively authorizing the Catholic Church to hold outdoor processions at specific locations on important feast days continued during the year. For the third consecutive year, it permitted a procession in connection with Masses in celebration of the feast day of Our Lady of Charity in Havana on September 8. The Government also authorized other denominations to hold a few public events in late November. However, the Government continued routinely and arbitrarily to deny requests for other processions and events. Just before Holy Week, the Government informed Catholic Church officials that no processions would be allowed. When the Church made this information public, state officials changed their position and decided that churches that had requested permission for a procession could proceed.

The authorities have never approved a public meeting by a human rights group. On February 22, state security officers detained prodemocracy activists in different parts of the country to prevent them from staging activities commemorating the February 24, 1996, shootdown of two civilian aircraft over international airspace by the air force. Security agents also warned many more activists against staging any public demonstrations on February 24, and warned independent journalists not to cover such incidents.

In early August, security agents detained in Havana leaders of the Council of Cuban Workers from various provinces to ensure that members could not hold a preparatory meeting for the CUTC’s first congress. Although scheduled to take place in October, it never was held. On October 13, state security arrested Pedro Pablo Alvarez Ramos, the Secretary General of the CUTC, as he was about to conduct a press conference. At year’s end, he remained in jail without being charged.

On August 15, state security informed a number of activists not to gather in the cemetery in Havana in honor of Eduardo Chibas, a well-known politician of the 1940’s and early 1950’s.

A march from the Church of the Sacred Heart of Jesus to the Church of La Merced and which was organized by dissidents for the release of political prisoners on September 17 did not take place because of police intimidation and detentions.

On September 25, police again prevented a number of activists from marching from the Church of the Sacred Heart of Jesus to the Church of Mercedes. Police took the activists to a police station to review their identification documents.

On November 2, the Day of the Dead, state security personnel prevented activists from entering the chapel in Havana’s Colon Cemetery where a number of human rights activists are buried.

On November 10, police in Santiago de Cuba prevented activists from marching from the Plaza de Marte in honor of the first anniversary of the attempt to demonstrate in Dolores Park in Havana.

During the year the Government organized a number of marches and rallies in front of diplomatic missions. The Government mobilizes thousand of persons in these marches, including school children and workers. Anyone who does not attend the event can be easily identified since persons congregate at certain points from factories or schools. Sometimes small identification papers are given to participants; they must present these papers to their immediate supervisor or school officials the next day to demonstrate that they attended the rally.

The Government generally denies citizens freedom of association. The Penal Code specifically outlaws illegal or unrecognized groups. The Minister of Justice, in consultation with the Interior Ministry, decides whether to give organizations legal recognition. The authorities have never approved the existence of a human rights group. However, there are a number of professional associations that operate as NGO’s but without legal recognition. For example, some scientists formed the Zoological Society, and some teachers established an Association of Independent Teachers.

Along with recognized churches, the Roman Catholic humanitarian organization Caritas, the Masonic Lodge, small human rights groups, and a number of nascent fraternal or professional organizations are the only associations outside the control or influence of the State, the Communist Party, and their mass organizations. With the exception of the Masons, who have been established in the country for more than a century, the authorities continue to ignore those groups’ applications for

legal recognition, thereby subjecting members to potential charges of illegal association. All other legally recognized nongovernmental groups are at least nominally affiliated with, or controlled by, the Government.

c. Freedom of Religion.—The Constitution recognizes the right of citizens to profess and practice any religious belief, within the framework of respect for the law; however, in law and in practice, the Government continues to restrict freedom of religion.

In 1991 the Government allowed religious adherents to join the Communist Party. In 1992 it amended the Constitution to prohibit religious discrimination and removed references to “scientific materialism,” i.e., atheism, as the basis for the State. Members of the armed forces do not attend religious services in their uniform, probably to avoid possible reprimand by superiors.

The Government requires churches and other religious groups to register with the provincial registry of associations within the Ministry of the Interior to obtain official recognition. In practice, the Government refuses to recognize new denominations. The Government prohibits, with occasional exceptions, the construction of new churches, forcing many growing congregations to violate the law and meet in private homes. Government harassment of private houses of worship continued, with evangelical denominations reporting evictions from houses used for these purposes. According to the Cuban Council of Churches (CCC) officials, most of the private houses of worship that the Government closed were unregistered, making them technically illegal. In addition CCC Pentecostal members have complained about the preaching activities of foreign missionaries that led some of their members to establish new denominations without obtaining the required permits. Because of these complaints by the Pentecostals, the CCC has formally requested overseas member church organizations to assist them in dissuading foreign missionaries from establishing Pentecostal churches.

The Government’s main interaction with religious denominations is through the Office of Religious Affairs of the Communist Party. The Ministry of Interior engages in active efforts to control and monitor the country’s religious institutions, including surveillance, infiltration, and harassment of religious professionals and laypersons.

In 1998 following Pope John Paul II’s January visit, the country’s Roman Catholic bishops called on the Government to recognize the Church’s role in civil society and the family, as well as in the temporal areas of work, the economy, the arts, and the scientific and technical worlds. The Government continued to limit the Church’s access to the media and refused to allow the Church to have a legal independent printing capability. It maintained a prohibition against the establishment of religious-affiliated schools. Nonetheless, in September local government authorities, for the third time since 1961, allowed the Catholic Church to hold an outdoor procession to mark the feast day of Our Lady of Charity in Havana. Although visibly present, state security personnel did not harass any participants or observers, as they did in 1998. However, prior to the event, security police ordered a number of human rights activists not to attend the procession. On December 25, 1999, the Government permitted the Catholic Church to hold a Christmas procession in Havana. Catholic Church authorities received permission to conduct the closing ceremonies for the jubilee year celebration and the Cuba Eucharistic Congress (the last one took place in 1959) on December 9 and 10. On December 9, 1,500 children from all over the country received their first communion in the square outside the San Carlos Seminary. On December 10 Cardinal Jaime Lucas Ortega Alamino, carrying the eucharist, led a procession of bishops, priests, and believers from the Church of Christ (Iglesia del Cristo del Buen Viaje) to the San Carlos Seminary. Unlike 1999, there was no broadcast of the Pope’s annual Christmas Day message from the Vatican, but it was mentioned in the evening television news.

In 1998 the Government announced in a Politburo declaration that henceforth citizens would be allowed to celebrate Christmas as an official holiday. (The holiday had been cancelled, ostensibly to spur the sugar harvest, in 1969, and restored in 1997 as part of the preparations for the Pope’s 1998 visit.) However, despite the Government’s decision to allow citizens to celebrate Christmas as a national holiday, it also maintained a December 1995 decree prohibiting nativity scenes in public buildings.

The Government allowed two new foreign priests to enter the country during the year and two to replace two priests whose visas were not renewed during the year. Some visas were issued only for periods from 3 to 6 months, and the applications of many other priests and religious workers remain pending.

The Government continued to enforce a resolution that prevented any national or joint enterprise (except those with specific authorization) from selling computers, fax machines, photocopiers, or other equipment to any church at other than official—and exorbitant—retail prices.

On July 9, dissidents attended the Jubilee Mass for prisoners celebrated by Cardinal Jaime Ortega Alamino at the Church of Our Lady of Charity. The Church distributed leaflets that invited worshippers to attend the Mass and to pray for prisoners and requested former prisoners and prisoners on conditional release to attend. Recently released members of the Internal Dissident Working Group, Martha Beatriz Roque Cabello, Rene de Jesus Gomez Manzano, and Felix Antonio Bonne Carcasses also attended. During the ceremony a white dove was released from its cage, and the congregation spontaneously started to clap and some persons shouted "liberty, liberty." State security officials outside the church did not intervene. The Church normally uses lay members to provide security at events like these. Apart from ensuring that people remain in their places or in the procession line during the service, these church guards also prevent any activities from taking place that could lead to a response from state security officials such as occurred at the July 9 Mass.

On August 30, the independent press agency Grupo Decoro reported that evangelical pastor Pablo Rodriguez Oropeza and his wife Enma Cabrera Cabrera were evicted from the house where they had lived for 6 years. The press agency did not report the reason for the eviction. Santos Osmany Dominguez Borjas, a bishop of the United Pentecostal Church of Cuba (Apostolic), returned to Havana after he was expelled to Holguin on October 8, 1999. In recent years, the Government has relaxed restrictions on some religious denominations, including Seventh-Day Adventists and Jehovah's Witnesses. The CCC continues to broadcast a monthly 15-minute program on a national classical music radio station, under the condition that the program not include material of a political character.

State security officials visited some priests and pastors, prior to significant religious events, ostensibly to warn them about dissidents; however, some critics claim that these visits are done in an effort to foster mistrust between the churches and human rights or prodemocracy activists. State security officers also regularly harassed, including inside churches and during religious ceremonies, human rights advocates who sought to attend religious services commemorating special feast days or before significant national days.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Government tightly restricted freedom of movement. The Government generally has not imposed legal restrictions on domestic travel, except for persons found to be HIV-positive, whom it initially restricts to sanatoriums for treatment and therapy before conditionally releasing them into the community. However, in recent years state security officials have forbidden human rights advocates and independent journalists from traveling outside their home provinces, and the Government also has sentenced others to internal exile. On December 12, a court sentenced Angel Moya Acosta to 1 year in prison and banned him from traveling to Havana from his home province of Matanzas for 10 years after serving his prison term.

In 1997 the Council of Ministers approved Decree 217, aimed at stemming the flow of migration from the provinces to the capital. Persons from other provinces may travel and visit Havana; however, they cannot move into the city, on the grounds that if internal migration is left unchecked, the city's problems regarding housing, public transport, water and electrical supplies will become worse. The Government recently noted that since the decree went into effect, 17,000 fewer people have migrated to Havana. Police frequently check the identification of persons on the streets, and if someone is found from another province living in Havana illegally, they are fined \$15 (300 pesos) and sent back home. Fines are higher (\$50 (1,000 pesos) for those who are residing illegally in the neighborhoods of Old Havana and Cerro. Human rights observers noted that while the decree affected migration countrywide, it was targeted at individuals and families, who are predominantly of African descent, from the more impoverished eastern provinces.

The Government imposed some restrictions on both emigration and temporary foreign travel. In June the Government denied an exit permit to Pedro Pablo Alvarez Ramos, secretary-general of the CUTC to attend a labor conference in the United States organized by the AFL-CIO. No explanation was given. Elizardo Sanchez Santa Cruz, president of the Cuban Commission for Human Rights and National Reconciliation also was not allowed to leave the country. Mexico's Partido Accion Nacional (PAN) had invited Sanchez to witness the Mexican presidential election on July 2. The PAN also invited members of the Moderate Reflection Group, but Osvaldo Alfonso Valdes, president of the Democratic Liberal Party and a member of the Moderate Reflection Group, said that the group decided not to apply for an exit permit because of lack of funds to pay for the application fees for exit permits. PAN also issued an invitation to Elizardo Sanchez to attend the inauguration of the new President on December 1. According to Sanchez, even though PAN officials re-

quested an exit visa for him directly from the Government, he never received it. Similarly, the authorities denied an exit visa to Osvaldo Alfonso Valdes, president of the Liberal Party, who was invited to attend the International Liberal Party's convention that took place in Canada in October.

The Government did issue an exit permit to Manuel Costa Morua of the Socialist Movement to travel to Europe in April; Costa Morua also is a member of the Moderate Reflection Group.

The Government allows the majority of persons who qualify for immigrant or refugee status in other countries to depart; however, in certain cases the authorities delay or deny exit permits, usually without explanation. Some denials involve professionals who have tried to emigrate and whom the Government subsequently banned from working in their occupational field. The Government refused permission to others because it considers their cases sensitive for political or state security reasons. In July 1999, the Ministry of Health issued an internal regulation, known as Resolution 54, that provides for the denial of exit permits to medical professionals, until they have performed 3 to 5 years of service in their profession after requesting permission to travel abroad. This regulation normally applied to recent graduates. This regulation was not published as part of the legal provisions, and may apply to other professionals as well.

The Government also routinely denies exit permits to young men approaching the age of military service, and until they reach the age of 27, even when it has authorized the rest of the family to leave. However, in most of those cases approved for migration to the United States under the September 1, 1994, U.S.-Cuban migration agreement, the applicants eventually receive exemption from obligatory service and are granted exit permits.

In September two independent journalists, Jesus Labrador, Cuba Press reporter, and Gustavo Cardero, (NotiCuba reporter) planned to leave the country as refugees until the authorities confiscated their exit permit.

The Government has a policy of denying exit permission for several years to relatives of individuals who successfully migrated illegally (e.g., merchant seamen who have defected while overseas, and sports figures who have defected while on tour abroad).

Migrants who travel to the United States must pay the Government a total of about \$500 per adult and \$400 per child, plus airfare. These government fees for medical exam, passport, and exit visa—which must be paid in dollars—are equivalent to about 5 years of a professional person's accumulated peso salary and represent a significant hardship, particularly for political refugees who usually are marginalized and have no income. In 1996 the Government agreed to allow 1,000 needy refugees to leave each year with reduced exit fees. However, after the first group of 1,000 in 1996, no further refugees have been accorded reduced fees. At year's end, 85 approved refugees remained in the country because they were unable to pay government exit fees for themselves and their families.

The Penal Code provides for imprisonment from 1 to 3 years or a fine of \$15 to \$50 dollars (300 to 1,000 pesos) for unauthorized departures by boat or raft. The office of the U.N. High Commissioner for Refugees (UNHCR) has stated that it regards any sentence of over 1 year for simple illegal exit as harsh and excessive. Under the terms of the May 2, 1995, U.S.-Cuba Migration Accord, the Government agreed not to prosecute or retaliate against migrants returned from international or U.S. waters, or from the U.S. Naval Base at Guantanamo, after attempting to emigrate illegally.

In 1994 the Government eased restrictions on visits by, and repatriation of, Cuban emigrants. Citizens who establish residency abroad and who are in possession of government-issued permits to reside abroad may travel to the country without visas. The Government reduced the age of persons eligible to travel abroad from 20 to 18 years and extended the period for a temporary stay abroad from 6 to 11 months. In 1995 the Government announced that emigrants who are considered not to have engaged in so-called hostile actions against the Government and who are not subject to criminal proceedings in their country of residence may apply at Cuban consulates for renewable, 2-year multiple-entry travel authorizations. However, in 1999 the Government announced that it would deny entry permits for emigrants who had left the country illegally after September 1994. It remains unclear whether the Government actually was implementing such a policy.

The Constitution provides for the granting of asylum to individuals persecuted "for their ideals or struggles for democratic rights against imperialism, fascism, colonialism, and neocolonialism; against discrimination and racism; for national liberation; for the rights of workers, peasants, and students; for their progressive political, scientific, artistic, and literary activities; and for socialism and peace." However, the Government has no formal mechanism to process asylum for foreign nationals.

Nonetheless, the Government honors the principle of first asylum and has provided it to a small number of persons. There was no information available on its use during the year. According to the UNHCR, since January the authorities received 75 applications for refugee status within the country. Of the 75 applicants, 24 persons were recognized as refugees. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

Citizens do not have the legal right to change their Government or to advocate change, and the Government retaliates systematically against those who seek peaceful political change. The Constitution proscribes any political organization other than the Communist Party. While the Constitution provides for direct election of provincial, municipal, and National Assembly members, the candidates must be approved in advance by mass organizations controlled by the Government. In practice, a small group of leaders, under the direction of President Castro, selects the members of the highest policy-making bodies of the Communist Party—the Politburo and the Central Committee.

The authorities tightly control the selection of candidates and all elections for government and party positions. The candidacy committees are composed of members of government-controlled mass organizations such as the Confederation of Cuban Workers (CTC) and the CDR's and are responsible for selecting candidates, whose names are then sent to municipal assemblies that select a single candidate for each regional seat in the ANPP. An opposition or independent candidate has never been allowed to run for national office.

In January 1998, the Government held national elections in which 601 candidates were approved to compete for the 601 seats in the National Assembly. According to the official state media, the candidates were voted in by over 93 percent of the electorate. No candidates with views independent from or in opposition to the Government were allowed to run, and no views contrary to the Government or the Communist Party were expressed in the government-controlled national media. The Government saturated the media and used government ministries, Communist Party organs, and mass organizations to urge voters to cast a "unified vote" where marking one box automatically selected all candidates on the ballot form. In practice, the Communist Party approved candidates for all offices. A small minority of candidates did not belong formally to the Communist Party. The Communist Party was the only political party allowed to participate in the elections.

On April 23, elections for local representatives to the municipal assembly were held. Government newspapers reported that 98 percent of voters participated in the election. Slightly more than 50 percent of those elected were the incumbents, 20 percent were women, and about 9 percent of all candidates were between the ages of 16 and 30. The reports also claim that nationwide the number of blank ballots decreased from 3.2 percent to 2.8 percent, while the number of annulled votes also decreased to 3 percent from nearly 4 percent, compared with the last election. Municipal elections are held every 2-1/2 years to elect 14,686 local representatives to the municipal assemblies. Deputies to the National Assembly, delegates to the provincial assemblies, and members of the council of state are elected during general elections held every 5 years. The municipal assemblies constitute the lowest level of the Government's structure.

Although not a formal requirement, Communist Party membership is in fact a prerequisite for high-level official positions and professional advancement.

The Government rejects any change to the political system judged incompatible with the revolution and ignored and actively suppressed calls for democratic reform. Although President Castro signed the Declaration of Vina del Mar at the Sixth Ibero-American Summit in 1996, in which government leaders reaffirmed their commitment to democracy and political pluralism, the Government continued to oppose independent political activity on the ground that the national system provides a "perfected" form of democracy and that pluralism exists within the one-party structure.

Government leadership positions continue to be dominated by men, and women remain underrepresented. There are very few women or minorities in policymaking positions in the Government or the Party. There are 2 women in the 24-member Politburo, 18 in the 150-member Central Committee, and 166 in the 601-seat ANPP. Although blacks and persons of African descent make up over half the population, they hold only six seats in the Politburo.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government does not recognize any domestic human rights groups, or permit them to function legally. The Government subjects domestic human rights advocates to intense intimidation, harassment, and repression. In violation of its own statutes, the Government refuses to consider applications for legal recognition submitted by human rights monitoring groups (see Section 2.b.).

Dissidents generally believe that most human rights organizations have been infiltrated and are subjected to constant surveillance. Activists believe that some, perhaps many, of the dissidents are either state security or are persons attempting to qualify for refugee status to leave the country.

In its 1997 report, the IACHR examined measures taken by the Government and found that they did not "comprise the bedrock of a substantive reform in the present political system that would permit the ideological and partisan pluralism implicit in the wellspring from which a democratic system of government develops." The IACHR recommended that the Government provide reasonable safeguards to prevent violations of human rights, unconditionally release political prisoners and those jailed for trying to leave the country, abolish the concept of dangerousness in the Penal Code, eliminate other legal restriction on basic freedoms, cease harassing human rights groups, and establish a separation of powers so that the judiciary would no longer be subordinate to political power.

The Government steadfastly has rejected international human rights monitoring. In 1992 the country's U.N. representative stated that Cuba would not recognize the mandate of the U.N. Commission on Human Rights (UNCHR) on Cuba and would not cooperate with the Special Rapporteur on Cuba, despite being a UNCHR member. This policy remained unchanged and the Government refused even to acknowledge requests by the Special Rapporteur to visit the country. In April 1998, the UNCHR did not renew the mandate of the Special Rapporteur, following as yet unfulfilled assertions by the Government that it would improve human rights practices if it was not under formal sanction from the UNCHR. As in 1999, the UNCHR again passed a resolution on April 18, introduced by the Czech Republic and Poland, which expressed concern about the human rights situation in the country. The Government responded by organizing a march of an estimated 200,000 persons past the Czech Embassy in Havana. On April 19, national television featured a round-table discussion on the UNCHR vote in which the Foreign Minister strongly criticized the UNCHR resolution and accused it of discriminating against third world countries.

During this same UNCHR session, the U.N. Special Rapporteur on Violence Against Women released her report, which was critical of the Government on issues of women's rights and on other human rights problems.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Cuba is a multiracial society with a black and mixed-race majority. The Constitution forbids discrimination based on race, sex, or national origin, although evidence suggests that racial discrimination occurs frequently.

Women.—Violent crime rarely is reported in the press, and there are no publicly available data regarding the incidence of domestic violence and rape; however, human rights advocates report that violence against women is a problem. The law establishes strict penalties for rape, and the Government appears to enforce the rape law; however, according to human rights advocates, the police do not act on cases of domestic violence.

Radhika Coomaraswamy, the U.N. Special Rapporteur on violence against women, visited the country in 1999 and issued a report on her findings in February. The report states that she was surprised to find that most government officials did not see violence against women as a prevalent problem. However, she noted that activists at the grassroots level are very attuned to problems of violence affecting women. Coomaraswamy urged the Government to take comprehensive steps to enhance the legal protection against violence against women and specifically urged the adoption of legislation to address domestic violence and sexual harassment.

Prostitution is legal (except for prostitution by children under 17 years of age); however, pandering or otherwise benefiting from prostitution is a felony. Prostitution has increased greatly in the last few years; press reports indicate that tourists from various countries visit specifically to patronize inexpensive prostitutes. A government crackdown on prostitution that began in late 1998 initially had some effect, but prostitutes (known as "jineteras") were still visible in Havana and other major cities during the year. The early success was obtained by stationing police on nearly every major street corner where tourists are present. Some street police officers are suspected of providing protection to the jineteras. Most observers believe that the

Government clamped down on prostitution to combat the perception that the Government promotes sex tourism. The Government set up centers to take prostitutes off the streets and reeducate them; the newest center reportedly opened in September in Valle Grande near Havana. In her February report, U.N. Special Rapporteur Coomaraswamy recommended that the Government dismantle the centers and find "other mechanisms that do not violate the rights of the prostitutes."

The Family Code states that women and men have equal rights and responsibilities regarding marriage, divorce, raising children, maintaining the home, and pursuing a career. Women are subject to the same restrictions on property ownership as men. The maternity law provides 18 weeks of maternity leave and grants working mothers preferential access to goods and services. About 40 percent of all women work, and they are well represented in many professions. According to the Cuban Women's Federation (FMC), women hold 33 percent of managerial positions. The FMC also asserted that 11,200 women have received land parcels to cultivate; that more than 561,000 women have begun working as agricultural workers, and that women devote 34 hours a week to domestic work, about the same number of hours they spend working outside the home.

Children.—The Constitution provides that the Government protect family, maternity, and matrimony. It also states that children, legitimate or not, have the same rights under the law and notes the duties of parents to protect them. Education is free and compulsory to the ninth grade, but it is grounded in Marxist ideology. State organizations and schools are charged with the integral formation of children and youth. The national health care system covers all citizens. There is no societal pattern of abuse of children. However, child prostitution is a problem, with young girls engaging in prostitution to help support themselves and their families. It is illegal for a child under 17 years of age to engage in prostitution. The police began to enforce this law more actively in late 1998 and continued to do so during the year, as part of their crackdown on prostitution in general. However, the phenomenon continues as more cabarets and discos open for the growing tourist industry which make it easier for tourists to come into contact with child prostitutes.

Police officers who find children loitering in the streets or begging from tourists frequently will intervene and try to find the parents. If the child is found bothering tourists a second time, police frequently fine the child's parents.

People with Disabilities.—The law prohibits discrimination based on disability, and there have been few complaints of such discrimination. However, a young married blind couple, members of the Fraternity of Independent Blind People of Cuba were told to leave a cafe in Moron where they sang for tips. There are no laws that mandate accessibility to buildings for the disabled. In practice buildings and transportation are rarely accessible to disabled people.

On November 8, a special police operation dislodged a number of persons with disabilities from selling their products in Central Havana. Police arrested two persons; a court sentenced one of them to 1 year in jail for selling stolen goods.

National/Racial/Ethnic Minorities.—Many persons of African descent have benefited from access to basic education and medical care since the 1959 revolution, and much of the police force and army enlisted personnel is black. Nevertheless, racial discrimination often occurs, and is acknowledged publicly by high governmental officials, including Castro. There have been numerous reports of disproportionate police harassment of black youths. In 1997 there were numerous credible reports of forced evictions of squatters and residents lacking official permission to reside in Havana. The evictions, exacerbated by Decree 217 (see Section 2.d.), primarily targeted individuals and families from the eastern provinces, which are traditionally areas of black or mixed-race populations.

Section 6. Worker Rights

a. The Right of Association.—The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment. The demands of the economy and society take precedence over individual workers' preferences. The law prohibits strikes; none are known to have occurred. Established official labor organizations have a mobilization function and do not act as trade unions, promote worker rights, or protect the right to strike. Such organizations are under the control of the State and the Communist Party, which also manage the enterprises for which the laborers work.

The Communist Party selects the leaders of the sole legal labor confederation, the Confederation of Cuban Workers, whose principal responsibility is to ensure that government production goals are met. Despite disclaimers in international forums, the Government explicitly prohibits independent unions and none are recognized. There has been no change in conditions since the 1992 International Labor Organization (ILO) finding that the Government violated ILO norms on freedom of associa-

tion and the right to organize. Those who attempt to engage in unofficial union activities face government persecution.

Workers can and have lost their jobs for their political beliefs, including their refusal to join the official union. Several small independent labor organizations have been created, but function without legal recognition and are unable to represent workers effectively or work on their behalf. The Government actively harasses these organizations. Police detained independent labor activist Jose Orlando Gonzalez Bridon of the CUTC for brief periods in January. Most political dissidents lose their jobs and remain unemployed; the only work they are offered is cleaning streets.

The CTC is a member of the Communist, formerly Soviet-dominated World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively.—Collective bargaining does not exist. The State Committee for Work and Social Security (CETSS) sets wages and salaries for the state sector, which is almost the only employer in the country. Since all legal unions are government entities, antiunion discrimination by definition does not exist.

The 1995 Foreign Investment Law (Law 77) continued to deny workers the right to contract directly with foreign companies investing in the country without special government permission. Although a few firms have managed to negotiate exceptions, the Government requires foreign investors to contract workers through state employment agencies, which are paid in foreign currency and, in turn, pay workers very low wages in pesos. Workers subcontracted by state employment agencies must meet certain political qualifications. According to Minister of Basic Industry Marcos Portal, the state employment agencies consult with the Party, the CTC, and the Union of Communist Youth to ensure that the workers chosen deserve to work in a joint enterprise.

There are no functioning export processing zones, although the law authorizes the establishment of free trade zones and industrial parks.

c. Prohibition of Forced or Compulsory Labor.—Neither the Constitution nor the Labor Code prohibits forced labor. The Government maintains correctional centers where it sends persons for crimes such as dangerousness. Prisoners held there are forced to work on farms or building sites. The authorities often imprison internees who do not cooperate.

The Government employs special groups of workers, known as microbrigades, that are temporarily reassigned from their usual jobs, to work on special building projects. These microbrigades become increasingly important in the Government's efforts to complete tourist and other priority projects. Workers who refuse to volunteer for these jobs often risk discrimination or job loss. Microbrigade workers reportedly receive priority consideration for housing assignments. The military assigns some conscripts to the Youth Labor Army, where they serve their 2-year military service requirement working on farms that supply both the armed forces and the civilian population.

The Government prohibits forced and bonded labor by children; however, the Government requires children to work without compensation. All students over age 11 are expected to devote 30 to 45 days of their summer vacation to farm work, laboring up to 8 hours per day. The Ministry of Agriculture uses "voluntary labor" by student work brigades extensively in the farming sector.

d. Status of Child Labor Practices and Minimum Age for Employment.—The legal minimum working age is 17 years. However, the Labor Code permits the employment of 15- and 16-year-old children to obtain training or fill labor shortages. The law requires school attendance until the ninth grade, and this law generally is respected. The Government prohibits forced and bonded child labor; however, it strongly encourages children to work without compensation (see Section 6.c.).

e. Acceptable Conditions of Work.—The minimum wage varies by occupation and is set by the CETSS. For example, the minimum monthly wage for a maid is \$8.25 (165 pesos); for a bilingual office clerk, \$9.50 (190 pesos); and for a gardener \$10.75 (216 pesos). The Government supplements the minimum wage with free education and subsidized medical care (but reduces daily pay by 40 percent after the third day of being admitted to a hospital), housing, and some food (this subsidized food is enough for about 1 week per month). However, even with these subsidies, the minimum wage does not provide a decent standard of living for a worker and family. Corruption and black market activities are pervasive. The Government rations most basic necessities such as food, medicine, clothing, and cooking gas, which are in very short supply.

The Government requires foreign companies in joint ventures with state entities to hire and pay workers through the State. HRW noted that the required reliance on state-controlled employment agencies effectively leaves workers without any capacity directly to negotiate wages, benefits, the basis of promotions, and the length

of the workers' trial period at the job with the employer. Reportedly these exploitative labor practices force foreign companies to pay the Government as much as \$500 to \$600 per month for workers, while the workers in turn receive only a small peso wage from the Government.

The standard workweek is 44 hours, with shorter workdays in hazardous occupations, such as mining. The Government reduced the workday in some government offices and state enterprises to save energy.

Workplace environmental and safety controls are usually inadequate, and the Government lacks effective enforcement mechanisms. Industrial accidents apparently are frequent, but the Government suppresses such reports. The Labor Code establishes that a worker who considers his life in danger because of hazardous conditions has the right not to work in his position or not to engage in specific activities until such risks are eliminated. According to the Labor Code, the worker remains obligated to work temporarily in whatever other position may be assigned him at a salary provided for under the law.

f. Trafficking in Persons.—In February 1999, the National Assembly revised the Penal Code to prohibit trafficking in persons through or from the country and provided the following penalties for violations: a term of 7 to 15 years' imprisonment for organizing or cooperating in alien smuggling through the country; 10 to 20 years' imprisonment for entering the country to smuggle persons out of the country; and 20 years to life in prison for using violence, causing harm or death, or putting lives in danger, in engaging in such smuggling. These provisions are directed primarily at persons engaging in organized smuggling of would-be emigrants. In addition, the revised code made it illegal to promote or organize the entrance of persons into or the exit of persons from the country for the purpose of prostitution; violators are subject to 20 to 30 years' imprisonment.

There were no reports that persons were trafficked to, from, within, or through the country for the purpose of providing forced labor or services.

DOMINICA

Dominica is a multiparty, parliamentary democracy and a member of the Commonwealth of Nations. A prime minister, a cabinet, and a unicameral legislative assembly compose the Government. A president, nominated by the Prime Minister in consultation with the leader of the opposition party, and elected for a 5-year term by the Parliament, is head of state. The Dominica Labour Party (DLP) prevailed in free and fair elections held on January 31, and Roosevelt P. Douglas became Prime Minister. Douglas died in office on October 1, and former Minister of Communication and Works Pierre Charles replaced him. The judiciary is independent.

The Dominica Police is the only security force. It is controlled by and responsive to the democratically elected Government. There were occasional allegations of abuse by the police.

The country's primarily agrarian economy depends on earnings from banana exports, which declined some 20 percent during the year. The Government's efforts to develop the tourist industry had mixed results, with a decline in tourist arrivals but an increase in cruise ship visitors during the year. The Government also is diversifying agricultural production and promoting the export of fresh fruits, vegetables, and coconut products, both within and outside the region. Per capita gross domestic product was about \$3,426 in 1999.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. The principal human rights problems are occasional instances of use of excessive force by police, poor prison conditions, societal violence against women and children, instances of discrimination against indigenous Carib Indians, and societal discrimination against female Caribs in mixed marriages.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political or other extrajudicial killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, there were some allegations of occasional use of excessive force by the police. During the first half of the year, the

authorities reportedly received 13 complaints regarding excessive use of force by the police.

In November 1997, the authorities forced the Commissioner and Deputy Commissioner of police to retire as a result of recommendations by a Commission of Inquiry that investigated allegations of mismanagement, corruption, and police brutality. Under new leadership, the police created an Internal Affairs Department in December 1997 to investigate public complaints against the police and to provide counseling to police. In July 1998, a consultant from the United Kingdom conducted a 3-month study to update antiquated police regulations and to establish new operational guidelines for the police. This report was submitted to the Government in 1998, but the recommendations have not yet been implemented.

Prison conditions are poor. Overcrowding and unsanitary conditions continue to be problems in the sole prison facility. There are over 200 prisoners. The prison provides work therapy, sports programs, educational opportunities, and counseling for inmates. There continued to be complaints by prisoners about the poor quality of prison food. Female prisoners are segregated from male prisoners; however, juveniles are housed with adult inmates.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires that the authorities charge persons with a crime within 24 hours after arrest. If charges are brought, the police must bring the detainee to court within 72 hours. This requirement generally is honored in practice, although those arrested on Fridays often must remain in jail over the weekend and are not charged until the following Monday.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and it is independent in practice.

The judicial system is composed of a high court judge, 5 magistrates, and 10 magistrate courts located in police stations around the country. Appeals can be made to the Eastern Caribbean Supreme Court and to the Privy Council in the United Kingdom.

The law provides for public trial before an independent, impartial court. Criminal defendants are presumed innocent until proven guilty, are allowed legal counsel, and have the right to appeal. Courts provide free legal counsel to the indigent only in capital cases.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices; government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for the right of free expression, and the Government respects this in practice. The political opposition openly criticizes the Government.

The print media consist of two private newspapers and political party journals; all publish without censorship or government interference. The principal radio station is state-owned and has a government-appointed board. There is also an independent radio station owned by the Catholic Church. Citizens also have access to independent news sources through cable television and radio reception from neighboring islands.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for these rights, and the Government respects them in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief by the authorities or simply enforcement of laws against marijuana, which is used as part of Rastafarian religious practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The law provides for these rights, and the Government respects them in practice. The Government may revoke passports if subversion is suspected but has not done so in recent times.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution calls for elections at least every 5 years.

On January 31, the Dominica Labour Party won 10 seats in free and fair elections, defeating the United Workers' Party (UWP) which had held power since 1995. DLP leader Roosevelt P. "Rosie" Douglas forged a majority coalition of 13 seats in the 21-member Parliament, with the Dominican Freedom Party, holder of 2 seats, and 1 former UWP parliamentarian who changed party affiliation to join the DLP Government. Douglas died in office on October 1, and the former Minister of Communication and Works, Pierre Charles, became the Prime Minister. Ian Douglas, nephew of Rosie Douglas and representing the DLP, won the December 11 by-election for the deceased Prime Minister's seat.

There are no impediments in law or in practice to the participation of women in leadership roles in government or political parties; however, they are underrepresented in practice. Voters elected two women to Parliament in the January elections.

Carib Indians participate in national political life.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no government restrictions on the formation of local human rights organizations, although no such groups exist. Several advocacy groups, such as the Association of Disabled People and a women's and children's self-help organization, operate freely and without government interference. There were no requests for investigations of human rights abuses from international or regional human rights groups.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution includes provisions against racial, sexual, and religious discrimination, which the authorities respect in practice.

Women.—Sexual harassment and domestic violence cases are common, and there is no family court to deal specifically with domestic violence issues. Women can bring charges against husbands for battery, and both the police and the courts prosecute cases of rape and sexual assault, but there are no specific spousal abuse laws. However, in April 1998, a new Sexual Offences Act went into effect to replace the previous act, which required medical evidence or witness corroboration for indictment. As a matter of policy, all rape cases are handled solely by female police officers. The Department of Labor recruited a permanent counselor and established a crisis response mechanism to assist women who are victims of domestic violence. The Welfare Department assists victims of abuse by finding temporary shelter, providing counseling to both parties, or recommending police action. The Welfare Department reports all cases of abuse to the police. The courts may issue protective orders, but the police do not enforce them consistently.

Beyond the general protection of the Constitution, women do not benefit from any specific civil rights legislation. While there is little open discrimination against women, property ownership continues to be deeded to "heads of households," who are usually males. When the male head of household dies without a will, the wife cannot inherit the property or sell it, although she can live in it and pass it to her children. In the civil service, the law establishes fixed pay rates for specific jobs, whatever the gender of the incumbent.

The Dominica National Council of Women, a nongovernmental organization, has developed local adult education and small business training programs for women. According to the Labor Department, many women in rural areas find it difficult to meet basic needs, at least in part owing to the decline in the banana export industry.

Children.—The law stipulates that the Government should protect the rights of children to education and health care. Education is compulsory through the age of 16, and primary health care is available throughout the island.

Various laws enumerate children's rights, but their enforcement is hampered by lack of staffing in government agencies. According to the Welfare Department, reported cases of child abuse, including sexual abuse, have increased in the past few years. In 1999 there were 303 reported cases of child abuse, which affected 71 boys and 232 girls. Of these cases, 124 involved sexual abuse. At year's end, there were

nine staff members in the social welfare office that handles all welfare problems, including complaints of child abuse.

Although the maximum sentence for sexual molestation (rape, incest) is life imprisonment, the normal sentence given is 15 years except in the case of murder. The age of consent for sexual relations is 16 years.

People with Disabilities.—Beyond the general protection of the Constitution, there is no specific legislation dealing with the disabled. However, the labor laws permit authorization of employment of a disabled person for less than the minimum wage, in order to increase opportunities for employment of the disabled (see Section 6.e.). There is no requirement mandating access for those with disabilities.

Indigenous People.—There is a significant Carib Indian population, estimated at 3,400 persons, of a total population of 76,000. Most live on a 3,783-acre reservation created in 1903 and expanded in 1997. School, water, and health facilities available on the Carib reservation are rudimentary but similar to those available to other rural Dominicans. Most Carib Indians engage in farming, fishing, and handicraft. Unemployment is believed to be higher than in rest of the country, while the average income is below the national average. About 65 percent of the Carib population is between the ages of 18 and 35.

The reservation is governed by the 1978 Carib Constitution. Carib Indians over the age of 18 who reside there are eligible to vote for the Chief and eight members of the Council of Advisors. Elections are held every 5 years, and the latest election was held in July 1999. According to the Carib Constitution, the Council must meet once a month, determine the chief's itinerary, and publish council meeting agendas in the government Gazette.

There are credible reports of discrimination against Carib women who are married to, or who live with, non-Carib men, making it difficult for such couples to obtain permits to build homes within the reservation. Building permits are obtained from the Carib Council. Until 1979 the Carib Constitution allowed Carib men married to non-Carib women to continue living on the Carib reserve but dictated that Carib women married to non-Carib men had to move off the reservation. Although the law has changed, practice is not yet in keeping with the law. In one case, a Carib woman in a common-law relationship with a non-Carib man who tried to build a house on land reserved for her family received threats that her house would be burned down. An estimated 25 percent of the Carib Indian population is believed to be in mixed marriages or relationships.

Section 6. Worker Rights

a. The Right of Association.—All workers have the legal right to organize, to choose their representatives, and to strike, but unions represent less than 10 percent of the work force. All unions are independent of the Government. While there are no direct ties, members of certain political parties dominate some unions. There is no restriction on forming labor federations, but there is no Trades Union Congress. Unions may affiliate with various international labor bodies.

b. The Right to Organize and Bargain Collectively.—Unions have legally defined rights to organize workers and to bargain with employers. Collective bargaining is widespread in the nonagricultural sectors of the economy, including in government service, and there is also recourse to mediation and arbitration by the Government. The law prohibits antiunion discrimination by employers, and judicial authorities enforce union rights. In addition, employers must reinstate workers fired for union activities. The law requires that employers recognize unions as bargaining agents once both parties have followed appropriate procedures. Department of Labor inspectors under the supervision of the Labor Commissioner enforce labor legislation, but the small Labor Inspection Office lacks sufficient personnel to carry out its duties.

Labor regulations and practices governing the country's industrial areas and export firms do not differ from those prevailing in the rest of the economy. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits forced or compulsory labor, including that by children, and such labor is not known to exist.

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum legal age for employment is 15 years. Employers generally observe this law without government enforcement. The law prohibits forced or bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—The law sets minimum wages for various categories of workers, but these were last revised in 1989. The minimum wage rate for some categories of workers (e.g., household employees) is as low as \$0.37 (EC\$1.00) per hour if meals are included. However, minimum wages for most workers fall in a range between \$0.74 (EC\$2.00) per hour for tourist industry workers

to \$1.11 (EC\$3.00) per hour for occupations such as shopclerks. Minimum wages are not sufficient to provide a decent standard of living for a worker and family. However, most workers (including domestic employees) earn more than the legislated minimum wage for their category. The Minimum Wage Advisory Board met in 1998 and recommended increases in these wage levels, but the Government had not yet acted upon these recommendations at year's end.

The labor standards laws state that no employer shall establish or maintain differences in wages between men and women performing the same or similar work with parallel responsibilities under similar conditions. The law further states that no employer may reduce the wages of an employee to comply with equal wage standards. The labor laws also provide that the Labor Commissioner may authorize the employment of a disabled person at a wage lower than the minimum rate in order to enable that person to be employed gainfully.

The standard legal workweek is 40 hours in 5 days. The law provides for a minimum of 2 weeks' paid vacation per year. The Employment Safety Act provides occupational health and safety regulations that are consistent with international standards. The Advisory Committee on Safety and Health is an established body but has never met. The rarely used enforcement mechanism consists of inspections by the Department of Labor, which can and does prescribe specific compliance measures, impose fines, and prosecute offenders. Workers have the right to remove themselves from unsafe work environments without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons.

The country has an economic citizenship program that allows foreign investors to purchase passports through loosely monitored procedures requiring cash inflows ranging from \$15,000 (EC\$40,000) to \$50,000 (EC\$135,000). This process reportedly has facilitated the illegal immigration of persons from China and other countries to North America where, in some instances, they may be forced by the criminal organizations that provided the funds to work under conditions similar to bonded labor to repay their debt.

DOMINICAN REPUBLIC

The Constitution provides for a popularly elected president and a bicameral Congress. President Hipolito Mejia of the Dominican Reform Party (PRD) took office on August 16 after a free and fair election, replacing President Leonel Fernandez of the Dominican Liberation Party (PLD). The PRD also has control of the Senate and Chamber of Deputies. The Constitution provides for an independent judiciary; however, interference from outside forces remains a problem. The Government took some steps to improve the ability of the judiciary to resist such outside interference.

The National Police (PN), the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), and the military (army, air force, and navy) form the security forces. The PN is under the Secretary of the Interior and Police; the military is under the Secretary of the Armed Forces; and the DNI and the DNCD, which have personnel from both the police and the military, report directly to the President. Although the security forces generally are responsive to civilian authority, there were instances in which members of the security forces, principally the National Police, acted independently of government authority or control. Members of the National Police, and to a more limited extent the military, continued to commit serious human rights abuses.

The economy, once heavily dependent on sugar and other agricultural exports, continues to diversify; tourism, telecommunications, and free trade zones (FTZ's) are major sources of income and employment. Remittances from abroad, estimated to exceed \$1.5 billion, are equivalent to approximately 9 percent of the \$2,100 per capita gross domestic product. The country's agricultural and tourism sectors and electrical power network largely have recovered from the effects of Hurricane Georges, which hit the island in 1998, while housing reconstruction and transportation infrastructure lag behind. The 1999 transfer of sugar mills to private control contributed to increasing poverty and joblessness in the bateyes (sugar cane shantytowns). Income distribution in the country is highly skewed, and according to the U.N. Development Program, the richest 10 percent of the population receives over 37 percent of the income, over 18 times that received by the most impoverished 10 percent of the population.

The Government's human rights record was poor, and serious problems remain. Police committed extrajudicial killings. The police, and to a lesser degree the military, tortured, beat, and otherwise abused detainees and prisoners. Police on several

occasions used force to disperse demonstrators. There was a significant increase in allegations of physical abuse and torture of minors in police and military detention. Prison conditions ranged from poor to extremely harsh. Police arbitrarily arrested and detained suspects and suspects' relatives. The ability of prosecutors to limit police detentions and practices has eroded, as compared with 1999. While there have been some improvements in the efficiency of the judiciary, lengthy pretrial detention and long delays in trials remained problems. Police committed break-ins of private homes without judicial orders. The authorities rarely prosecute abusers, and at times members of the security forces commit abuses with the tacit acquiescence of the civil authorities, leading to a climate of impunity. Numerous allegations of corruption by government officials were raised following the change of administration. The authorities infringe on citizens' privacy rights. Members of the police harassed journalists. The Government at times pressured editors not to publish unfavorable items, and journalists practice self-censorship. The Government at times restricted freedom of assembly. The Government restricts the movement of and forcibly expels Haitian and Dominican-Haitian migrants. Violence and discrimination against women; prostitution, including child prostitution; abuse of children; discrimination against the disabled, discrimination against and abuse of Haitian migrants and their descendants, and child labor are serious problems. There continued to be reports of forced labor. Workers on the sugar plantations and mills continued to work in unsafe conditions. Trafficking in women and girls is a serious problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political killings by government officials; however, police committed at least 250 extrajudicial killings. It is difficult for any outside observer to quantify the exact number of victims of extrajudicial killings each year; included in this number are civilians who were killed in alleged "exchanges of gunfire" with police. The police fail to cooperate with civilian authorities in many ways, which made quantifying the problem very difficult. For example, the police do not provide Public Ministry officials with reports on investigations of citizens killed in confrontations with police; police rarely documented citizen killings in accordance with minimum investigations or crime scene standards; police denied civilian authorities, including prosecutors requesting information, transcripts of police tribunal hearings that process these cases in secret; and the police have been known to publicly fire officials involved in these incidents, only to reinstate them quietly later.

The Dominican Human Rights Committee and other observers state that the police may employ unwarranted deadly force against criminal suspects in a kind of uniformed vigilantism. In addition, some victims are involved in private disputes with police agents, while other victims later were found to be honest citizens erroneously caught up in the wave of antigang violence carried out by the police. The circumstances of the vast majority of these killings are questionable, but witnesses other than the police usually are lacking.

Extrajudicial killings stem from the lack of basic education, poor training, and weak discipline of the members of the police force. These problems are aggravated by low pay and the fact that the Government's budgetary allocation for the police is too low to support the higher recruiting standards needed and to provide adequate training for police. For example, new recruits fire only one round of ammunition during training, and there is no coherent policy on the use of deadly force or rules of engagement by the police. Additionally, the lack of professional, transparent, and credible investigation of the circumstances in which police kill citizens in "exchanges of gunfire" lead to the perception of impunity in these killings. Finally, there is a lack of specific training in human rights as applied to police work.

In the majority of the 250 deaths at the hands of police, the police characterized the victims as delinquents. The rest were wives, girlfriends, or associates of the officers, other civilians, or fellow officers. In most cases, the police claimed that the deaths resulted from the exchange of gunfire in the course of an arrest. Amnesty International's August report noted the large number of deaths at the hands of police and the lack of transparency in the investigative process. In October 1999, the Inter-American Commission on Human Rights (IACHR) issued a report that criticized the police for committing extrajudicial killings and neglecting to investigate and punish officers responsible for such abuses. Police assert that the deaths of so-called delinquents resulted from shoot-outs requiring the police to act in self-defense. However, a number of cases demonstrate that this often is not the case.

For example, on April 18, police shot and killed Antonio Lora Fernandez allegedly during questioning at the Isabela police substation of Puerto Plata.

In July in Manoguayabo, a suburb of Santo Domingo, police shot and killed Juan Expedito Garcia, a 49-year-old businessman who was traveling with his daughter-in-law, Katy Jimenez de Garcia. Garcia and Jimenez were victims of an attempted carjacking by a group of delinquents. The delinquents ultimately kidnaped the two and sped away, followed closely by the police. After being stopped by police, Garcia and Jimenez threw themselves to the ground, raised their hands, and told the police not to shoot because they themselves were victims. Jimenez, the only surviving witness, reported that the police shot Garcia four times in the head and three times in the body before shooting and killing one of the kidnapers. She overheard one officer giving the order to kill her as well, but was spared when she was able to explain the circumstances of their kidnaping. The police commission investigating the incident recommended that those responsible be tried in a military tribunal. At year's end, there was no public information about the investigation into this case.

In July witnesses, including the victim's sister, reported that police shot and killed 20-year-old Juan Jose Urena in Santo Domingo. The police said that Urena was wanted by the Secret Service and the Department of Homicide and Crimes against Property. They reported that when they tried to detain Urena, he threatened them with a machete, and they were forced to shoot him. The victim's sister, who saw the incident, said that he did not resist arrest, but that he already was wounded and handcuffed when the agents fired the shots that killed him. Urena's death at the hands of police led to public protests, tire burnings, and the throwing of Molotov cocktails. Police responded with tear gas and guns. The police shot a bystander in the leg as they tried to calm the protests (see Section 2.b.). The police officers who participated in the shooting of Urena were arrested pending a police investigation.

On July 18, in Guayabin, on the northern border with Haiti, military agents shot and killed 6 Haitians and 1 Dominican citizen and wounded 13 others after they crossed the border illegally in a truck (see Section 2.d.).

On August 13, a 30-year-old Haitian died after soldiers took him into custody in La Canada, near Hondo Valle (see Section 2.d.).

On September 25, police killed two persons in separate incidents, 20-year-old Emilio Jose Matias Moronta and 23-year-old Lauri Mendez Sena, in Santo Domingo neighborhoods Villa Maria and Los Alcarrizos, respectively. The local press reported that the police said that Moronta resisted arrest and threatened officers with a gun; however, an unidentified businessman claimed the police version was false and that the victim did not carry a firearm and was first wounded by the police in the leg. In the same press report, the police claimed Sena resisted arrest with a machete. At year's end, there was no public information about an investigation.

On November 15, police shot and killed Johnny Perdomo Santo, in the Santo Domingo neighborhood of Ozama. Police reported to the press that they followed Santo in a car, whose plates linked it to a history of crimes, and that Santo attempted to shoot at them. Santo reportedly died on the way to the hospital. Witnesses told the press there were a total of three victims, including a woman. They said two corpses were taken away in the police vehicle, and a third one was taken away in the victims' car. At year's end, there was no public information about an investigation into the facts of the case.

Military personnel killed a number of Haitian migrants who were attempting to enter the country (see Section 2.d.).

The administration of President Hipolito Mejia acknowledged the problems with the police apparatus and early in his administration agreed to the creation of a Police Reform Commission to be made up of the Chief of Police, the Attorney General, the Secretary of the Armed Forces, the Legal Advisor to the President, representatives of human rights organizations, and legislators. However, President Mejia retained the services of Chief of Police Pedro de Jesus Candelier, under whose tenure the number of deaths at the hands of the police rose significantly over previous years. At year's end, the Commission had not made public any recommendations, but the Secretary of Interior and Police indicated in early December that he would make public and open to public debate any contemplated reforms. In October the Attorney General publicly agreed to more aggressive independent investigation of extrajudicial killings. On December 7, the Supreme Court president urged judges to apply the full weight of the law in cases of violations of human rights.

Police courts may try police officers or may remand them to civilian court jurisdiction. Military courts try military personnel charged with extrajudicial killings or other crimes. Police Chief Candelier announced that every time an officer is involved in a questionable incident, the case goes to a commission of superior officers for investigation. He said that if it is determined that the police officer exceeded his authority, the case is sent to the police courts or to the civilian courts, depending on the severity of the offense. However, the police send very few—if any—cases to

civilian courts, despite requests from the former Attorney General, District Attorney, and Justice Reform Commissioner. On September 4, six civil society groups submitted an "Act of Unconstitutionality" to the Supreme Court on the issue of the legality of Law 285, which encompasses the Code of Police Justice. Civil society groups argue that police courts violate the Constitution, and that they weaken the separation and independence of governmental functions, as well as the exclusivity of the judicial function in the administration of justice. The lawsuit asks the Court to rule on the constitutionality of these police tribunals; a decision was still pending at year's end.

State agents in prisons also committed extrajudicial killings. In the Najayo Prison in San Cristobal, police custodians shot and killed inmates Francisco Alberto Jaquez Brito, Manuel Sanchez Fermin, and Rafael Taversal Alberto in August during an escape attempt. A commission that included the Attorney General, the Chief of Police, and the Director of Prisons concluded that police agents acted negligently and in excess of their duties, and that the escapees could have been subdued by other means. The prisoners had not yet breached the exterior gates of the prison campus when they were shot and killed. The commission recommended that the three police cadets be tried in a police tribunal, and that three police supervisors be sanctioned with days in prison and "arrest without salary" for failing to control their subordinates and for failing to take an adequate count of prisoners. Human rights groups called for civilian trials for those responsible for the deaths of the prisoners.

There also were a number of deaths in prisons due to harsh conditions and official negligence (see Section 1.c.).

In July 1999, the authorities arrested a general, a colonel, a legal consultant, and various police officers in connection with the deaths of three alleged delinquents in Moca. In a civilian video, the police were shown handcuffing the three young men and placing them, alive, in the back of a police pickup truck. When the truck arrived at police headquarters, the three men were dead. A lower police tribunal reportedly tried, convicted, and sentenced officers Cesar Ovando Michell and Virgilio Severo Rodriguez to 2 years in prison, but a Police Appeals Tribunal later absolved the officers. The first-instance police tribunal discharged three other officers. In early November, the Attorney General asked Police Chief Candelier for a detailed report on the tribunal's proceedings, and said that he would investigate the possibility of reopening the case on a procedural appeal to the Supreme Court. Candelier said that he would not prevent such action; however, as of year's end, the case had not yet been presented to the Supreme Court.

In August a court sentenced Rafael Paredes de la Cruz, a former cadet in the National Police to 15 years in prison for the 1998 killing of Father Jose Antonio Tineo Nunez. The court found the other defendant, Juan Bautista Caminero Mendoza, not guilty.

There was no progress reported in trials of police officers detained for killing law student Franklin Bortolo Fabian Mejia in July 1998; for killing a suspected robber of a Santiago pharmacy, also in July 1998; or for the triple homicide in November 1998 of three young male victims who might have been killed because of their refusal to share the proceeds of a recent robbery with the police.

In August a court in Santo Domingo released the verdict in the case of the 1975 murder of journalist Orlando Martinez Howley, a critic of the Balaguer administration. Retired General Joaquin Pou Castro, former air force officer Mariano Cabrera Duran, and Luis Emilio de la Rosa Beras admitted to the killing and a court sentenced each of them to the maximum penalty of 30 years in prison. The court also awarded an indemnity of \$314,000 (5 million pesos) to Martinez's surviving brothers. Lawyers for the sentenced defendants say that they plan to appeal. Although several witnesses testified to the knowledge and complicity of former President Balaguer in the murder, he was not called to testify for health reasons.

In April violence at political rallies during the election campaign resulted in two deaths and several injuries when PRD bodyguards fired into the crowd at a political rally in Moca (see Section 3.)

b. Disappearance.—There were no reports of politically motivated disappearances.

There was little progress in the investigation into the case of Narciso Gonzalez, a university professor and critic of the Balaguer government who disappeared in May 1994. According to the former District Attorney, there is not enough evidence to go to trial, and existing evidence is contradictory. There was no action during the year on the family's complaint to the Inter-American Court of Human Rights.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution and the law prohibit torture and other forms of physical abuse; however, security force personnel continue to torture, beat, and otherwise physically abuse detainees and prisoners. Lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbate the problem of

physical abuse. Human rights groups, the local press, and the President's Commission to Support the Reform and Modernization of Justice (Justice Reform Commission) reported regular and repeated occurrences of physical abuse of detainees while in custody. There was a significant increase in allegations of physical abuse and torture of minors in police and military detention.

In June the Justice Reform Commission reported cases of torture and abuse of at least nine minors in the police stations in Villas Agrícolas, Los Farallones, Villa Francisca, and Plan Piloto in the national district. It cited numerous instances of beatings, sexual abuse, asphyxiation with plastic bags to elicit confessions, and a torture method called "roasting the chicken" in which the victim is placed over hot coals and turned until confessing. After completing an internal investigation, the National Police claimed that there were no instances of torture or abuse, and that if force was used, it was necessary to obtain the "obedience" of the minor. The Justice Reform Commission criticized the police for failing to conduct an objective investigation and for covering up serious abuses. As of September, the district attorney for Santo Domingo had made two requests to the Chief of Police that three officers be turned over for interrogation. Both of these requests were denied. An investigative judge was appointed to the cases, which were still pending in the Eighth Penal Court in Santo Domingo at year's end.

In August judges of the Appeals Court for Children and Adolescents in San Pedro de Macoris made public a set of allegations of similar abuses committed against 19 minors in police stations in Juan Dolio and Boca Chica, as well as in the General Pedro Santana public jail, which is controlled by the army. One of the adolescent victims reported that the police beat him to force him to say "yes" to their questions; in the interrogation sessions, they hit him with the butts of their guns; they made him kneel and two officers at once hit him in the ears and kicked him; they hit him with a baton, and put him in a dark room where they applied an electric current to his body. The child reported that due to the marks these incidents left on his body, the police held him for 8 days before transferring him to the judge. The law requires that minor detainees be transferred to a judge within 24 hours. There is no information available regarding any investigation into these alleged abuses by the police or the military.

Homosexual and transvestite detainees report to gay rights advocates that during detention the police have held them in a darkened room and have given them the alternative of performing fellatio on guards or being placed in a locked cell with the most dangerous prisoners, where the detainees presumed that they would be raped, beaten, or both. Other informants confirmed that the police use the prospect of being locked in with the most dangerous prisoners as a threat.

The National Coordinator for Human Rights cited the Department of Homicide and Robbery Investigations and the DNCD for the persistent use of torture to extract confessions from detainees. According to human rights organizations, the method most often used is beating. After several former detainees went to the press in 1999 with credible reports that police interrogators had beaten them repeatedly, the Chief of Police and Attorney General designated a commission to investigate. The beatings allegedly took place during periods of detention of up to 15 days without arraignment before a judge (the Constitution permits only 48 hours). The informants reported that the police repeatedly awoke them during the night for questioning. Human rights advocates have described another form of abuse that guards reportedly use against prisoners in the Mexico section of San Pedro de Macoris Prison. Prison officials use a punishment called "the toaster", where prisoners are laid, shackled hand and foot, on a bed of hot asphalt for the entire day and are beaten with a club if they scream. The army administers San Pedro de Macoris prison.

The National District Prosecutor's office continued to place lawyers in high-volume police stations and in several DNCD offices to monitor the investigative process and to assure that detainees' rights are respected (see Section 1.d.). Most of the affected PN and DNCD investigators responded positively to this oversight, although some DNCD personnel reportedly complained that their hands were being tied. This initiative remains largely limited to the Santo Domingo metropolitan area, with a lesser presence in Santiago. There is some evidence that these assistant prosecutors at times acquiesce in traditional police practices, rather than attempt to raise these practices to constitutional standards. Less qualified prosecutors assigned to the rest of the country have not assumed strong roles in managing criminal investigations and ensuring the rights of suspects. Human rights courses are offered in the training curriculums for military and DNCD enlisted personnel and officers; however, the courses are optional. In October the Armed Forces Secretary inaugurated the Military Institute of Human Rights, located in Santiago.

Civilian prosecutors sometimes file charges against police and military officials alleging torture, physical abuse, and related crimes. A 1997 law provides penalties for

torture and physical abuse, including sentences of from 10 to 15 years in prison. However, until recently these provisions were not known fully or applied by prosecutors and judges. There have been repeated calls by human rights groups as well as by the Justice Reform Commission for civilian trials of officials charged with abuse and torture; however, most cases, if tried at all, are sent to military or police tribunals.

Out of a police force of about 23,000 members, Police Chief Candelier fired 84, disarmed 200, and sent 100 officers for retraining during the first 6 months of the year as part of an effort to increase respect for human rights and discipline within the police force. He reported that many of the 84 were fired for drug use, including cocaine and marijuana. However, some discharged officers later were rehired. Significant problems also remain because serious efforts have not been made to vet police recruits. Many persons with prior criminal records reportedly have been incorporated into police ranks, either using false names or identification or with recommendations from other state institutions, such as the army.

The police at times forcibly dispersed demonstrators, using tear gas and weapons (see Sections 2.b. and 6.b.).

Prison conditions range from poor to extremely harsh. Reports of torture and mistreatment in prisons are common. The prisons are seriously overcrowded, health and sanitary conditions are poor, and some prisons are out of the control of the authorities. The General Directorate of Prisons falls under the authority of the Public Ministry and is seriously underfunded. Budget allocations for necessities such as food, medicines, and transportation were lacking. Medical care in all prisons suffers from a lack of supplies and available physicians. Prisoners immobilized by and dying of AIDS are not transferred to a hospital, but some terminal-stage inmates were released early to spend their last days at home.

In 32 prisons around the country with a total capacity of 9,000 persons, the police and the military hold more than 15,000 prisoners and detainees. The military controls 22 prisons with a total of 6,000 prisoners, and the National Police controls 10 prisons, with a total of 9,000 inmates. A warden is responsible for running each prison and reports to the Attorney General through the Directorate of Prisons. A police or military colonel (or lieutenant colonel), who is appointed for 3 to 6 months only, reports to the warden and is responsible for providing security. However, in practice the colonel is in charge of the prison, and neither the Directorate of Prisons nor the individual wardens have much power. According to credible reports, some prisons are totally out of the control of the authorities. They are, in effect, operated by armed inmates, who decide whether an individual gets food, space to sleep, or medical care. Individual inmates only can secure a tolerable level of existence by paying for it. Only those with considerable personal or family resources can do so.

Conditions at La Victoria prison, which is run by the National Police, pose a serious threat to life and health. In June this prison held over 3,500 prisoners in a facility built for 1,000. In March there was a serious fire at La Victoria in which 13 persons died, 44 suffered burns, and 20 others were injured. Inmates alleged that guards refused to open cell doors so that they could escape. At year's end, the Director of Prisons reported that an investigation had been conducted, and that those responsible were arrested and sent before a police tribunal. However, there was no public information on the trial's outcome.

The Barahona Commission for the Defense of Human Rights has criticized the conditions in the Barahona prison, which has 22 beds, but currently holds 586 inmates. In one cellblock, which has space for 32 persons, there are 145 inmates. The commission issued a report at mid-year, in which it described 52 Haitians imprisoned there as "practically kidnaped," and said that they have not been taken to their hearings. The Commission reported that the bathroom facilities amount to cesspools and that the authorities are indifferent to the lack of hygiene; prisoners do not receive medicine or medical attention, and many have tuberculosis and other diseases. They allegedly receive only one meal on Saturdays and no meals on Sundays.

A government food program for the general public is used to provide lunches at some prisons. The former Director of Prisons reported that his office had the budget to spend \$0.50 (8 pesos) per inmate to provide three meals per day. Inmates surveyed said that the food provided was unacceptable, and most chose to eat whatever they could beg for or purchase from persons in the vicinity of the prison or from family members. Due to inefficiency and corruption within the prison system, visitors often have to bribe prison guards in order to visit prisoners.

Female prisoners are separated from male inmates. In general, conditions in the female prison wings are superior to those found in male prison wings. There have been some reports of guards physically and sexually abusing female inmates. Female inmates, unlike their male counterparts, are prohibited from receiving conjugal

visits. Those who deliver while incarcerated are permitted to keep their babies with them in prison until they reach 1 year of age.

In May in Rafey Prison in Santiago, guards beat six inmates with aluminum and wooden bats as they bathed in the rain in a courtyard of the prison. Two officials allegedly responsible for the beatings were said to have been tried in a police tribunal; however, there was no public information available about any investigation or trial.

The law requires that juveniles be detained separately from adults. However, recent press reports found a high incidence of juveniles who were detained with adult prisoners being forced into sexual servitude in return for protection at prisons around the country. Najayo prison has a new wing for juvenile offenders that holds 250 persons. Inmates are not separated by crime within the prison population; however, they may be put into solitary confinement for disturbances while incarcerated.

The Government permits prison visits by independent human rights monitors and by the press.

d. Arbitrary Arrest, Detention, or Exile.—Arbitrary arrest and detention are problems. The Constitution provides for the security of the individual against imprisonment without legal process, bars detention beyond 48 hours without the detainee being presented before judicial authorities, and prohibits custodial authorities from not presenting detainees when requested. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held. However, the security forces continued to violate constitutional provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit. The police traditionally detain all suspects and witnesses in a crime and use the investigative process to determine who are innocent and merit release, and who they should continue to hold. After the prosecutor's office placed its lawyers in several police stations in 1997, the police began to curtail the practice of arbitrary detention in those precincts. However, progress has been slow (see Section 1.c.), and this program has been limited for the most part to the Santo Domingo metropolitan area. During the year, no new prosecutors were placed in police stations, and the effectiveness against human rights abuses of those working in police stations cannot be discerned accurately.

The prosecutor for the Court of Appeals in Santiago reported that the Department of Investigation of Homicide and Robbery of the National Police, Northern Command, routinely detained persons beyond the 48-hour limit. Detainees at police headquarters in Santo Domingo, known as "the palace," reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana Police Station commonly are held for 8 to 14 days, well beyond the 24-hour limit for minors. The official in charge of the Department for Minors attributes this to lack of swift action by the Juvenile Defender, the Public Ministry official in charge of interrogating minors and sending them before a Juvenile Court judge. By law juveniles may not be interrogated by the police or in the presence of police.

The police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrest and detain individuals arbitrarily. The alleged objective of the roundups is to fight delinquency. Following the indiscriminate arrests, the police regularly detain individuals for up to 20 days or more, while they look for a reason to charge them with a crime. For example, on September 23–24, police arrested 900 persons around the country in 1 weekend with the objective of "preventing the commission of crimes" and "maintaining order and peace." They also took possession of property including motorcycles, other vehicles, and weapons. Human rights organizations report that individuals detained in these roundups frequently are beaten. The police say that they rely upon unlawful detention without presentation to a court because some cases involve more complicated investigations. However, there is a clear pattern of the police arresting individuals before investigating a crime thoroughly, and relying on confessions to make their case. Without the education, training, or equipment to conduct modern forensic investigations, police rely instead on holding suspects incommunicado (see Section 1.e.), repeatedly questioning them, and sometimes beating them, until they confess. Prosecutors who are assigned to monitor the criminal investigation phase at police stations appear to be unable to control the practice (see Section 1.c.).

A related problem is the police practice of arresting and detaining individuals solely because of their familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse are all vulnerable to this practice, the goal of which is to compel an at-large suspect to give himself up or to coerce a confession from one already arrested. In 1999 the PN chief had ordered that this practice be ended immediately; however, it continued. According to the Dominican Human Rights Committee, there were several reports of detentions of suspects' relatives during the year.

Local human rights organizations have reported on and criticized police roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly take groups of dark-skinned or "Haitian-looking" individuals to empty buildings soon after they are paid, in order to extort money from them. One worker reported that he was beaten frequently, and that many of his paychecks were taken during these roundups. He said that the license plates are removed from the official police vehicles so that the perpetrators cannot be identified easily.

Many suspects suffer long pretrial detention. In November over 83 percent of the national prison population was awaiting trial, 11 percent higher than in 1999; of these, about three-quarters were "prisoners without sentences," and the remainder had convictions under appeal. However, while suspects nationwide still suffer long pretrial detention, judicial statistics show reduced delays for the last 3 years in the Santo Domingo National District (an area that accounts for approximately 45 percent of all criminal cases in the country). The average pretrial detention throughout the country is more than 6 months.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail serves as the de facto criminal justice system. As a rule, defendants awarded bail rarely face an actual trial. (Time already served counts toward a sentence.) This situation improved somewhat as a result of the steps taken by the former Santo Domingo District Attorney and the judiciary, in cooperation with the Director of Prisons, to introduce a prisoner registry system that focuses on providing timely trials for prisoners. The failure of prison authorities to produce the accused caused a significant percentage of trial postponements. Authorities held some prisoners even though there were no formal charges against them, and kept some prisoners jailed even after a court ordered their release. One prisoner held in Najayo Prison was charged with swindling over 4 years ago. The maximum penalty for this crime is 3 years; however, the prisoner was never tried or convicted. His case finally was dismissed in August. In October the Attorney General proposed a program to reduce prison crowding by releasing inmates who only were held pending payment of a fine. Large numbers of prisoners are generally pardoned at the end of the year. In early December, prison authorities paroled 80 elderly (75 years or older) persons, 90 terminally ill prisoners, and 150 inmates who have finished sentences, but cannot pay their fines.

Notable advances also were made by the new Mejia administration to increase the availability of free legal services to the poor. Most detainees and prisoners cannot afford adequate defense services. There were 12 new public defenders added, bringing the total to 31 throughout the country. A bill to create a national public defender program was pending in Congress at year's end.

Hoguisten Canji, a 33-year-old Haitian, spent 9 years in prison without an official charge and without ever being presented to a judicial officer. His case finally came to the attention of the Public Defender Program, which ultimately obtained his release on January 14 on a writ of habeas corpus. His attorney noted that there was no official file on the case, no name of the person that he allegedly murdered in 1991, and no order for preventive detention. A Public Defender Program attorney also defended Hector Manuel Reyes, who spent 17 years behind bars for a murder for which he had never been convicted. The authorities had lost his case file. Reyes was released on March 20. Officials acknowledge that there may be hundreds of such cases in the prison system.

The law prohibits forced exile, and there were no reports of its use. However, persons who credibly asserted that they were citizens sometimes were expelled to Haiti (see Sections 1.f. and 2.d.).

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, attempts by public and private entities, including the executive branch, to undermine judicial independence still remain. The judiciary appears better equipped to resist such outside interference, due in part to training funded by foreign technical assistance. Court officials also began to implement new selection criteria for judges. The National Judiciary Council chooses members of the Supreme Court, with the goal of ensuring independence from the executive and legislative branches, and some progress has been made.

The judiciary, based primarily on the Napoleonic Code, includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are also specialized courts that handle administrative, labor, land, and juvenile matters.

Military or police courts have jurisdiction over members of the security forces. However, civil society groups challenged this system in a Supreme Court case filed in August (see Section 1.a.). Public pressure exists for military or police boards to remand cases involving serious crimes to civilian courts for review; however, there is no information that any such cases were remanded during the year. In other

cases, civil authorities have requested that the PN turn over their files so that cases of suspected extrajudicial killings might be evaluated independently for possible prosecution. There was little cooperation from the National Police or military in requested investigations during the year (see Section 1.c.).

Judges, rather than juries, render all verdicts. Under the 1994 constitutional amendments, which entered into force in August 1998, the Supreme Court is responsible for naming all lower-court judges in accordance with a judicial career law. The National Judiciary Council selects new justices of the Supreme Court. The Council consists of the President, the President of the Senate, the President of the Chamber of Deputies, two at-large members designated by them (one Senator and one Deputy, from parties different than those of the presidents of the Senate and Chamber), the President of the Supreme Court, and one other justice designated by the Supreme Court.

Following the commission of a crime, the criminal process begins with the arrest of possible suspects. During the investigative phase, suspects are questioned repeatedly and urged to confess. The Constitution provides for the right not to be arrested without judicial warrant except in cases where the suspect is caught in the act; the right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right to be presented to a competent judicial authority within 48 hours of one's detention; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. These rights commonly are disregarded.

The most serious and common violation of these rights occurs when police detain suspects, sometimes for many days, without giving them access to a telephone call to family while subjecting them to frequent questioning. Although accused persons are entitled to have an attorney present, they often are not permitted to call one or, if one arrives, the attorney is not permitted to be present during the questioning. (The police complain that the presence of attorneys interferes with their investigations.) Torture frequently is used as a method to extract a confession during questioning (see Section 1.c.). Under these circumstances, suspects may confess to acts that they did not commit merely to get relief from the intense questioning and the detention. The results of these interrogations frequently form the only evidence presented at the trial.

The law provides for the remedy of "Amparo," an action any citizen may bring for violation of a constitutional right, in accordance with the terms of the Inter-American Convention on Human Rights. This action includes violations by judicial officials. The process of dispute resolution, including reconciliation, mediation, and arbitration, continues to be used as an alternative to trial and incarceration.

There remains a large backlog of criminal cases in the National District and throughout the country. The Supreme Court's plan to unclog the court dockets has been frustrated by the Government's failure to allocate sufficient funds. Dockets are crowded with traffic infractions that should be heard in the traffic courts provided for by statute; due to a lack of funds, the traffic courts have not been set up. Other complications in clearing the backlog arise from the exhaustion of funds for transporting prisoners to court; many cases must be sent back when the accused does not appear. The Government has not yet established 25 additional courts provided for by law.

Throughout the year, there were improvements in the administration of justice that resulted from cooperation between the judiciary and the Santo Domingo district attorney's office. New cases unnecessarily congesting the criminal system were reduced by more than 50 percent through use of community conciliation centers, and investigative judge rulings increased by 65 percent in the last 2 years. The courts' efforts to improve productivity of judges was notable: the number of definitive (final) sentences quadrupled over the past 3 years and time to trial was reduced from an average of 11.8 to 6.5 months. It is not yet clear how the change of 90 percent of Public Ministry officials in August will affect the changes introduced by the previous administration.

The judicial training school trained 530 judges (out of a total of 585) on drafting and structuring sentences in its first cycle. The school prepared a computer seminar on fundamental constitutional protections with four modules for judges on human rights. In October it held a seminar on domestic violence and a seminar on judicial ethics for 200 judges. A dialog among 500 judicial and civil society representatives created a judicial code of ethics.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution contains provisions against arbitrary entrance of one's home; however, police sometimes break into private quarters without cause to search for suspects, and the authorities infringe on citizens' privacy rights in other ways as well. Al-

though the Government denies arbitrary use of wiretapping or other surreptitious methods to interfere with the private lives of persons or families, it has not taken necessary steps to dismantle an active private wiretapping industry.

The law permits the arrest of a suspect caught in the act of committing a crime, and police may enter a residence or business in pursuit of such suspects. Otherwise judges must authorize arrests and issue search warrants. However, the PN and occasionally the DNCD continued to violate these requirements. Some prosecutors confessed that out of "tactical necessity to combat criminality" and "with great reluctance," they tolerated the illegal search practices. They justified their actions by arguing that the Government has not provided sufficient resources or attention to criminal investigation and that, given the cumbersome and antiquated criminal procedures, adhering to the letter of the law would make law enforcement nearly impossible.

The Dominican Human Rights Committee reported that police carried out raids on private homes in the Santo Domingo neighborhoods of Caputillo, Villa Agrícola, Los Alcarrizos, and Guachupita; police allegedly went into homes without search warrants to look for delinquents.

The police continued to detain relatives and friends of suspects to try to compel suspects to surrender or to confess (see Section 1.d.).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The law provides for these freedoms, and the Government generally respected them in practice; however, there were some isolated exceptions. For example, there were isolated instances of government pressure on editors not to publish certain unfavorable items, such as negative poll results.

Citizens of all political persuasions exercise freedom of speech. Newspapers and magazines freely present a diversity of opinion and criticism; there are eight daily and seven weekly newspapers, and three weekly magazines. However, journalists and editors practice self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

The National Press Union criticized police treatment of journalist and union secretary Paul Meguis Jose in April. Jose was following a story in Batey Central in Barahona when a police officer shoved him, threw his camera on the ground, and then confiscated it. A police tribunal found the official guilty of an infraction, and ordered that he serve 10 days in prison. In San Francisco de Macoris, police smashed the camera of La Nacion newspaper reporter Julio Benzant. DNI agents arrested and mistreated Jose Rivas, a reporter for the daily newspaper Hoy, during his coverage of the return of Mario Duran Cabrera, one of the defendants in the Orlando Martinez case (see Section 1.a.). The Dominican Human Rights Committee criticized the detention of journalist Robert Vargas, of the Spanish news agency (EFE), and the unlawful search of his residence carried out by police as an attempt to intimidate him for his reporting on human rights issues.

Numerous privately owned radio and television stations broadcast all political points of view. The Government controls one television station.

In September the National Press Union criticized the violation of freedom of expression by the director of the government-owned Dominican Radio and Television for canceling an FM radio program. The director of the station arrived with a group of military officers to interrupt the broadcast and said that the program served as a forum to criticize the Government of President Mejia. The union complained that this cancellation occurred only days after installation of the new Government and asserted that the station director should have discussed the program with its producers if he disagreed with its content.

In November the National Press Union reported that PRD leaders, including one from the Secretariat of Youth and another from the National Lottery, beat a journalist in Hato Mayo, who broadcast a radio program critical of the PRD. In the same month, in Moca, a provincial official of the Secretariat of Education punched a correspondent of the daily newspaper El Nacional when he asked the official about problems with the national school lunch program. Also in November, a correspondent from the El Siglo newspaper was sued for slander and detained for 2 days after he denounced the cutting of trees ordered by the vice mayor of Constanza. The charges later were dropped.

Public and private universities enjoy broad academic freedom. The main public university, the Autonomous University of Santo Domingo, with approximately 100,000 mostly part-time students, has few restrictions on enrollment and maintains a policy of nonintervention (other than on curriculum development) in classroom affairs. The Government exerts no control over private universities, except for the preservation of standards, and teachers are free to espouse their own theories without government oversight.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly and the Government generally respects this right in practice; however, there were some exceptions, and the Government at times restricted this right. Outdoor public marches and meetings require permits, which the Government usually grants; however, the police used force to break up demonstrations on several occasions throughout the year. The Government responded with force to disperse demonstrators calling for completion of public works projects, opposing evictions, or supporting a strike. During transportation strikes in the first 4 months of the year, police used force to disperse union members; others were arrested and detained without charges for several days.

The police used force to disperse demonstrators. News reports and human rights organizations criticized the manner in which police used force to disperse demonstrators in Batey 5 in Barahona in mid-year. Protesters gathered to call for compliance with a promise to finish installation of electricity made 4 years ago by the governor of the province. There were reports that police indiscriminately launched tear gas into homes; several children had to be taken to hospitals due to the effects of the gas. According to the Dominican Human Rights Committee, the police on several other occasions used force to remove squatters from Punta Villa Mella, Valiente, La Toronja, and Vallo Lindo, state-owned lands near the national district (Santo Domingo and environs).

In a December interview with the newspaper *Hoy*, the Secretary of Interior and Police admitted that the police committed abuses when responding to several public marches and demonstrations in late November. These protests were largely in response to the Government's package of economic proposals. On November 16, a police lieutenant and four others were wounded by bullets and rocks in the confrontation between high school students and police in the town of Licey. National news media reported that the police repelled the students with tear gas. Student leaders told reporters that the police came into the school and arrested and beat several students. The police have promised an investigation into the protests.

On November 24, former President Leonel Fernandez and numerous other PLD leaders were involved in confrontations with the police when the PLD officials marched to the offices of the Public Ministry to protest the arrest of four high-level PLD members on corruption charges. The police used tear gas against the marchers and prevented Fernandez from entering the building. He and several others were overcome by the gas and taken to nearby hospitals.

On November 29, the "black helmet" unit of the police interrupted a march to the National Palace by groups of student, chauffeur, and social organizations who were also protesting the economic reform package. Police repelled demonstrators with tear gas and rubber bullets and detained more than 170 demonstrators. Organizers of the demonstration, including Human Rights Committee president Virgilio Almanzar, claimed that the police denied their right to freedom of assembly.

There were no reports of the use of the criminal charge "association with criminal elements" to stifle political dissent this year. Under former President Balaguer, the authorities traditionally used this charge against dissidents and those involved in street demonstrations against the Government.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. Political parties frequently affiliate with their foreign counterpart organizations. Professional organizations of lawyers, doctors, teachers, and others function freely and can maintain relationships with counterpart organizations.

c. Freedom of Religion.—The Constitution prohibits discrimination on religious grounds, and many religions and denominations are active. The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

The Catholic Church, which signed a concordat with the Government in 1954, enjoys special privileges not extended to other religions. These include the use of public funds to underwrite some church expenses, such as rehabilitation of church facilities, and a complete waiver of customs duties when importing goods into the country. The attendance at Catholic Mass for members of the National Police is compulsory.

In July then-President Fernandez signed a law making Bible reading in public schools obligatory. This new law added Bible reading to the weekly flag raising and singing of the national anthem in public schools. Private schools are not obliged to include Bible reading as part of their weekly activities.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of travel, except for limitations imposed under judicial sentence, or police regulations for immigration and health reasons, and the Government generally respects these provisions in practice; how-

ever, there were some exceptions. Citizens face no unusual legal restrictions on travel within or outside the country. Local and international human rights groups cited discrimination against Haitian migrants, whom they said were subject to arbitrary and unilateral action by the authorities.

Haitians continue to migrate in great numbers to the Dominican Republic, some legally but most without legal documents, in search of economic opportunity. Some illegal migration is assisted or sanctioned indirectly by the authorities, especially by police and military in the border areas, who profit from the illegal traffic. Throughout the year, the security forces, particularly the army, repatriated undocumented Haitian nationals believed to be in the country illegally. In December the Directorate of Migration reported that 12,500 Haitians were repatriated during the year; however, a later report issued by the armed forces stated that they had deported 36,362 Haitians between August 16 and the end of the year.

In many cases, the Government denied those deported the opportunity to demonstrate that they were legal residents in the country or to make arrangements for their families or property. Haitian Government officials complained that Haitians often were detained with little or no food and then deported without timely notice to the Haitian authorities. Human rights organizations and the media continued to report many instances of violent treatment of Haitian migrants by the authorities.

On July 18, in Guayabin, on the northern border with Haiti, military agents shot and killed 6 Haitians and 1 Dominican citizen and wounded 13 others after they crossed the border illegally in a truck. The truck had sped through several military checkpoints, and members of the military pursued it until it crashed. Controversy exists as to whether the military personnel knew that the truck was filled with immigrants when they fired at it. A Commission with members from Haiti and the Dominican Republic was established to investigate the incident. The officers reportedly were tried in a military court, given letters of reprimand, and returned to military service.

On August 13, a 30-year-old Haitian died after he was taken into custody by soldiers in La Canada, near Hondo Valle, a border town. According to newspaper reports, he entered the country illegally and was detained along with two other illegal migrants; soldiers allegedly beat him to death. The Commander of the Third Brigade of the army arrested the soldiers involved in the homicide and promised a quick investigation.

On November 7, soldiers in the Department of Border Investigation Operations shot and killed a Haitian under questionable circumstances at the Elias Pina border crossing point. Investigations of killings of civilians at the hands of military, similar to killings at the hands of police, lack transparency. At year's end, there was no information about an investigation into this case.

On March 6, the IACHR held a hearing in two 1997 cases of two Dominican-born children who have been denied birth registrations. The mothers of both children are Dominican citizens of Haitian descent. The law in question is Law 6-59 on Civil Records, and the legal issue in the case is the denial of the right to register a late declaration of birth. The cases were still pending at year's end.

On August 8, the Inter-American Court of Human Rights heard a case presented by the Dominican Center for Justice and International Law (CEJIL), Dominicans 2000, Human Rights Watch, the International Human Rights Law Clinic, and other international human rights organizations, alleging that massive expulsions, repatriations, and deportations of Haitians and Dominican-Haitians by the Government violated international human rights law. The Inter-American Court considered general concerns about "mass expulsions" and "forced repatriations" carried out by the Ministry of Interior and Police, as well as nine individual cases of persons who allegedly were expelled forcibly without opportunity for due process. The Court did not address the case of the six Haitians killed in Guayabin.

On August 18, the Court rendered its decision, laying out "provisional measures" for the future treatment of Haitians, and specific relief and protection of the nine individuals. It did not require immediate broad-based accountability of the migration authorities for enforcement of border agreements reached with Haiti in December 1999. These agreements set out a systematized deportation procedure in which Haitian authorities would be advised of potential deportations, deportees would be given opportunities for legal hearings (to present proof of legal status in the country), as well as opportunities to advise family members and collect belongings. Rather, the Court requested that the Government provide more detailed information about the condition of individuals in the border "bateyes" (shantytowns) who potentially are subject to forced expulsions. It also asked for a government report every 2 months on provisional measures that are expected to be adopted to comply with the Court's decision.

The ongoing process of repatriating Haitian citizens did not diminish after the Court's decision in August. NGO representatives working in rural areas reported that decisions to deport often were made by lower ranking members of the security forces, sometimes based upon the racial characteristics of the deportees. The Director of Migration stated that the process of rounding up illegal Haitians is performed by the rank and file of the armed forces and migration officers. They approach persons who look like Haitians, including persons who have very dark complexions and fairly poor clothing. They engage them in conversation about their work and residence, mainly to check their use of Spanish and any accent they may have. If such persons speak Spanish poorly or with a noticeable accent, they generally are detained and deported.

The Haitian Government protested the failure to give detainees an opportunity for a hearing on their claim of citizenship or right to residence, although it acknowledges the Government's right to deport those individuals who are illegal aliens. NGO's and Catholic priests familiar with the process also have protested that children born of one or two Haitian parents in the Dominican Republic, heretofore denied registration as Dominican citizens, frequently are among those deported as illegal Haitians.

While the Government has a policy of strictly enforcing documentary requirements and repatriation for those found lacking, it appears to have an unofficial policy that is more tolerant, which is fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. Thus, after being stopped as a suspected illegal Haitian migrant, an individual may be allowed to remain in the country despite his lack of documents if his story about work satisfies the official who stopped him. NGO's have reported corruption among the military and migration border officials, and noted that these officials sometimes cooperate with the transit of Haitian workers into the country. However, in December the Director of Migration reported that the need for Haitian labor is generally filled by Haitian migrants already in the country.

According to a 1984 presidential decree, an applicant for refugee status must be referred to the Technical Subcommittee of the National Commission for Refugees by the National Office of Refugee Affairs. The Subcommittee, which makes a recommendation to the Commission, is made up of members from the Foreign Ministry, the DNI, and the Immigration Directorate. The Commission, which makes a final decision on the application, consists of the three members of the Subcommittee; the legal advisor to the President; and members of the PN, the Ministry of Labor, and the Attorney General's office. There is no functioning National Office of Refugee Affairs, and the National Commission for Refugees, an office of the Foreign Ministry, has not met since 1993. However, the Subcommittee makes recommendations, and the Immigration Directorate issues documentation to refugees certified as such by the U.N. High Commissioner for Refugees (UNHCR). While these documents are accepted routinely by the police and immigration officials, the process by which they are issued does not comply with the decree. During the year, 43 refugee applications (30 of which were from Haitians) were submitted. Of those, the UNHCR recognized 14 and refused 5; 17 were pending and 5 were abandoned. There were no reports of repatriation or refoulement of persons claiming refugee status.

The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. The Government provides first asylum and resettlement. There were several cases in which the Government offered political asylum to refugees and their families fleeing war-torn countries.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Citizens exercised this right in free and fair presidential elections in May. Voters gave the PRD 49.87 percent of the vote, while the DLP received 24.94 percent, and the Social Christian Reform Party (PRSC) received 24.6 percent of the vote. The Constitution requires 50 percent plus one vote for a candidate to be elected to the presidency; however, if the second-place candidate concedes, as happened in May, the Central Electoral Board (JCE) may declare the first-place candidate the winner without a second round of elections.

The President and all 179 members of the Senate and the Chamber of Deputies are elected freely every 4 years by secret ballot. There is universal adult suffrage; however, active duty police and military personnel may not vote. In practice, voting is limited to those persons who can show a national identity document, which requires that their births were registered properly by their parents.

There was a significant controversy about the ability of the JCE to issue new national identity cards to the voting population prior to the May elections, and there were serious allegations by the PRD that the PLD intentionally was sabotaging its supporters' ability to vote. Ultimately, the Board was able to issue cards to most voters who applied for them. However, there were numerous reports, including allegations by supporters of the PRD, that identity cards were being taken or "bought" from dark-skinned individuals so that they would not exercise their right to vote.

Election campaigning was relatively peaceful, although there were isolated instances of violence. On April 29, two PLD activists were killed in Moca during a PRD campaign rally. PLD members claimed that PRD supporters shot into a group of PLD flag wavers. In contrast, PRD supporters argued that PLD opposition members were trying to "ambush" their presidential candidate's motorcade. There was also political violence in San Pedro de Macoris at the end of April in which a vice mayor and secretary general of the PRD were wounded by gunfire when their party was carrying out a medical mission in one of the neighborhoods. During the August 16 election, an argument between political rivals reportedly led to the fatal shooting of an unidentified man in San Juan de la Maguana.

The nation has a functioning multiparty system. Opposition groups of the left, right, and center operate openly. The President often dominates public policy formulation and implementation. He can exercise his authority through the use of the veto, discretion to act by decree, and influence as the leader of his party. Traditionally, the President has predominant power in the Government, effectively making many important decisions by decree. Former President Fernandez reduced the reliance on rule by decree during his administration. The President appoints the governors of the 29 provinces.

Congress provides an open forum for the free exchange of views and debate. The main opposition party is the PLD, which holds 4 of 30 seats in the upper house and 49 of 149 seats in the lower house. A third major party, the PRSC of former President Balaguer, contests all elections; various smaller parties are certified to contest provincial and national elections.

The JCE conducts all elections. In April 1999, the leading political parties agreed that the Congress should approve legislation expanding the JCE from five to seven members until after the May presidential elections. The PLD and the PRSC each nominated one new member to join the board.

There were no reports of disturbances surrounding the Dominican Municipal League (LMD). It functioned normally, albeit with diminished legitimacy, due to the exclusion of PRD candidates from the 1999 election for LMD president.

Women and minorities confront no serious legal impediments to political participation; however, they are underrepresented in government and politics. By law parties must reserve 33 percent of positions on voting lists for women; a proportion that is to increase to 40 percent in 2002. However, the parties often place women so low on the lists as to make their election difficult or impossible. With the election of former Senator Milagros Ortiz-Bosch to the vice-presidency, there is only 1 woman in the 30-member Senate; women hold 24 seats in the 149-member Chamber of Deputies. Women continue to be represented in appointed positions, albeit to a limited degree. The President of the Chamber of Deputies is a woman, as are two cabinet secretaries. Women fill 5 of the 15 seats on the Supreme Court.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Nongovernmental human rights organizations generally operate freely without government interference. In addition to the Dominican Human Rights Committee, the National Human Rights Commission, and the nongovernmental Truth Commission (dealing with the Narciso Gonzalez case), several Haitian, church, women's, and labor groups exist.

The Government established the Reform Commissions for the police and armed forces in the latter part of the year, and allowed limited civil society or NGO representation. The most credible human rights and civil society organizations are not represented. At year's end, there was no public information available nor discussion in civil society about the objectives of the two reform commissions.

There is no ombudsman's office. However, at year's end, legislation was pending in Congress to create a human rights ombudsman's office as well as a special prosecutor for human rights abuses.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on race and sex; however, such discrimination exists, the Government seldom acknowledges its existence or makes efforts to combat it.

Women.—Domestic violence is widespread. Under the 1997 Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from one year to 30 years in prison, and have fines ranging from \$30 to \$6,000 (500 to 100,000 pesos). The State can prosecute a suspect for rape even if the victim does not file charges. This law also allows a rape victim to press charges against her husband without having her marriage annulled. The Secretariat of Women, as well as various NGO's, have outreach programs on domestic violence and legal rights. In 1998 the Government opened a center in Villa Juana (National District) for the legal support and forensic examination of abused women, which handled 35 to 50 cases per day in its first year. Since its opening, it has handled over 7,000 cases and now averages 60 to 90 cases per day. Due to the success of this first center, the Government opened two additional centers during the year in San Francisco de Macoris and Santiago. The Ministry of Women has begun a project, in coordination with a local NGO, to open a fourth Services Center for Victims of Domestic Violence in San Cristobal. At year's end, there were still no shelters for battered women.

Rape is a serious problem and is believed to be widely underreported. From January through October, the Santo Domingo district attorney's office received only 203 reports of rape in the National District. The penalties for committing rape are 10 to 15 years in prison and a fine of \$6,097 to \$12,195 (100,000 to 200,000 pesos). Victims often do not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police are reluctant to handle rape cases and often encourage victims to seek assistance from NGO's.

Sexual harassment is widespread.

Prostitution is illegal; however, the Government does not enforce vigorously prostitution laws, except in cases involving child prostitution and international trafficking in women and girls, which is a serious problem (see Sections 6.c. and 6.f.). Sex tourism is a growing industry throughout the country as the number of international visitors increases. NGO's have ongoing HIV/AIDS and sexually transmitted disease prevention programs for male and female prostitutes, as well as for hotel and industrial zone workers. The 1997 Domestic Violence Law prohibits acting as an intermediary in a transaction of prostitution, and the Government has used the law to prosecute third parties that derive profit from prostitution.

Divorce is easily obtainable by either spouse, and women can hold property in their own names apart from their husbands. Traditionally, women have not shared equal social and economic status or opportunity with men, and men hold the majority of leadership positions in all sectors. In many instances women are paid less than men in jobs of equal content and equal skill level. Some employers reportedly give pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates report that pregnant women often are not hired.

Children.—Despite the existence of government institutions dedicated to child welfare, private social and religious organizations carry the principal burden. The Oversight Organization for the Protection of Children, created by the executive branch, is the primary government institution covering issues of child welfare. Private institutions receive 35 to 40 percent of the budget of the Oversight Organization. The Mejia administration created a new Ministry of Youth soon after the election.

The 1994 Minor's Code requires 8 years of formal education. The Oversight Organization works with NGO's, law enforcement personnel, and the general public to publicize children's rights. In the National District, the Department of Family and Children, in the Office of the Prosecutor, administers the Minor's Code and arranges conciliation of family conflicts to execute court decisions with respect to child protection, and to interview children whose rights have been violated.

Abuse, including physical, sexual, and psychological, is the most serious human rights violation affecting children. The Department of Family and Children estimates that 50 percent of the children in the country are victims of some sort of abuse. No statistics were available from the National Police's Department of Sexual Abuse regarding rapes of children between 4 and 11 years of age, and few such cases reached the courts. In 50 percent of the cases, the accused is a person close to the child: a father, grandfather, uncle, brother, cousin, or close family friend. The criminal law provision on sexual abuse and intrafamily violence provides for a pen-

alty of 10 to 20 years incarceration and a fine of \$6,600 to \$13,200 (108,000 to 216,000 pesos) for persons found guilty of sexual abuse of a minor, and up to 30 years if the victim is a family member of the abuser.

Typical cases of child abuse include that of a 4-month-old child whose arm and rib were broken by his parents. The child was separated from his parents and sent to a shelter until the parents completed required counseling and psychological treatment. An 8-year-old child's father burned his child's hand after the child was caught stealing. There also have been reports of children being left tied up and without food in their homes while their parents go to work. The law prohibits the press from reporting on all cases of child abuse, which results in a diminished public perception of it.

The Minor's Code contains provisions against child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor. It also provides for removal of a mistreated child to a protective environment. According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. However, child abuse is receiving increasing public attention.

The Ministry of Health gave conservative estimates that, from January through October, there were 887 deliveries by female adolescents under age 15, and 15,491 deliveries by adolescents between the ages of 15 and 19. This information is preliminary and conservative in light of 1999 statistics, which estimated deliveries by adolescents below age 15 at 1,529, and by adolescents from 15 to 19 at 33,332 for that full year. Many of these pregnancies were reported to be the result of rape or incest and often are accompanied by sexually transmitted diseases.

Some in the tourist industry have facilitated the sexual exploitation of children; particular areas of concern are Boca Chica and Puerto Plata. Tours are marketed by foreigners overseas with the understanding that boys and girls can be found as sex partners. According to an official in the District Attorney's Office, the Association of Hotels has asked to participate in government initiatives to combat the exploitation of children in the tourist industry. Journalists reported that the majority of prostitutes in brothels visited around the National District appeared to be between 16 and 18 years of age. There are several church-run shelters that provide refuge to children who break free from the prostitution trade. Prostitution is the principal area of exploitation of underage girls in the informal economy. The Oversight Organization carried out community information campaigns on children's rights, including the prevention of child abuse, child labor, and family violence. It also provided training to persons and groups providing social services to children, judicial officials, and other children's advocates.

Poor adolescent girls and boys sometimes are enticed into performing sexual acts by the promise of food or clothing; sometimes they are forced into unsafe relationships with strangers by the need for money. Once involved, they may be held against their will by individuals who sell their sexual favors to others. Some of these minors are lured from their parental homes; others are already on the street.

Trafficking in girls is a serious problem (see Section 6.c. and 6.f.).

The judicial system sometimes fails to protect the status of minors in criminal cases. The authorities sometimes treated minors as adults—most often when physical forensic examinations indicated that the person claiming to be minors were probably adults—and incarcerated them in prison rather than juvenile detention centers. In 1997 the Government began implementing the 1994 Minor's Code, laying the groundwork for a juvenile court system. The Supreme Court inaugurated the first of 11 juvenile courts in August 1999 and chose judges for the other 10 courts, some of which were functioning by year's end. Although these juvenile courts are organized with a focus on rehabilitating offenders, very few social services are available for minors. In practice, juveniles are detained in excess of the time permitted by law, and then are sent to jail rather than referred for rehabilitative services. There are legal advocates especially for juveniles in Santo Domingo and La Vega to provide them with representation in delinquency cases.

Child labor is a problem (see Section 6.d.). It is not uncommon for minors to be put on the street to fend for themselves as younger siblings claim the parent's meager resources. Homeless children called "palomas" (doves) are frequently at the mercy of adults who collect them and put them to work begging and selling fruit, flowers, and other goods on the street. In return for their work they are given basic housing. The ages at which these children work, the hours they put in, and their failure to comply with compulsory school attendance all violate the law, but the Government has not been able to combat this practice.

People with Disabilities.—Disabled persons encounter discrimination in employment and in the provision of other services. Although the law provides for physical access for the disabled to all new public and private buildings, the authorities have

not enforced this law uniformly. There is a Subsecretariat for Rehabilitation under the Ministry of Public Health, a recreation center for the disabled in Las Caobas, and a department in the Sports Ministry to facilitate athletic competition for the disabled. However, there is little consciousness of the need to make the daily lives of the disabled safer and more convenient. For example, new street construction makes few provisions for the disabled to cross the streets safely.

The Dominican Rehabilitation Association (ADR) has grown from a 1-room operation to a large complex with 17 affiliates throughout the country. It provides services for 2,500 persons daily. The Government provides about 30 percent of the ADR's budget. The Government also distributed 25,000 wheelchairs donated by a foreign athletic team.

National/Racial/Ethnic Minorities.—A strong prejudice against Haitians runs through society and disadvantages many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of African descent. The Government has not acknowledged the existence of this discrimination nor made any efforts to combat it. Darker-skinned Dominicans also face informal barriers to social and economic advancement.

Efforts to stem the influx of Haitian immigrants have made it more difficult for those Haitians already in the country to live peacefully. Police regulations threaten those offering transportation to illegal immigrants with confiscation of their vehicles, and have discouraged taxi and bus drivers from picking up dark-skinned persons. In roundups of illegal immigrants, authorities pick up and expel darker Dominicans as well as legal Haitian residents.

Perhaps 500,000 Haitian immigrants—or 7 percent of the country's population—live in shantytowns or sugar cane work camps, in harsh conditions with limited or no electricity, running water, or schooling. There are estimates that as many as 1 million Haitians live in the country. Human rights groups regularly charge the Government with unlawful deportations of, and police brutality toward, these legal and illegal immigrants (see Sections 1.d and 2.d.).

Credible sources also charge that the Government refuses to recognize and document as Dominican citizens many individuals of Haitian ancestry born in the country. Since many Haitian parents have never possessed documentation for their own birth, they are unable to demonstrate their own citizenship. As a result, they cannot declare their children's births at the civil registry and thereby establish Dominican citizenship for their offspring. Some civil registry offices do not accept late declarations of birth for children of Haitian immigrants, although they routinely accept late declarations for children of Dominican parents.

Haitian parents encounter difficulties registering their children for school. Lack of documentation usually deprives children of Haitian descent of the opportunity to attend school where there is one available. Some parents fail to seek documentation due to fear of being deported. It falls to the discretion of public school principals whether children may attend, when immigrant parents have no identity cards or birth certificates to register children formally. Even when permitted to attend primary school, it is rare that the children of Haitian parents progress beyond sixth grade.

Sometimes poor Haitian families arrange for Dominican families to "adopt" and employ their children. The adopting parents can simply register a child of any age as their own. In exchange, the parents receive monetary payment or a supply of clothes and food. They believe that this ensures their children a more promising future. In many cases, adoptive parents do not treat the adoptees as full family members and expect them to work in the households or family businesses rather than attend school. The effect is a kind of indentured servitude, at least until the young person reaches majority (see Section 6.c.). There were reports that Haitian girls between the ages of 10 and 14 were the most sought after, especially in border areas.

The Government is doing little to improve the conditions of Haitian immigrants. Most social services in shantytowns are provided by NGO's and other relief organizations.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the freedom to organize labor unions and for the right of workers to strike (and for private sector employers to lock out workers), and workers in all sectors exercise this right. All workers, except the military and the police, are free to organize. Organized labor represents an estimated 10 percent of the work force and is divided among four major confederations and a number of independent unions. There are approximately 190 registered unions in the country. The 1992 Labor Code provides extensive protection for worker rights and specifies the steps legally required to establish a union, federation, or confederation. The Code calls for automatic recognition of a union if the

Government has not acted on its application within 30 days. In practice, the Government readily facilitates recognition of labor organizations.

Unions are independent of the Government and generally independent of political parties. The law against companies who fire union organizers or members is enforced selectively, and penalties are insufficient to deter employers from violating worker's rights. There were reports of widespread discreet intimidation by employers in an effort to prevent union activity. This is apparent particularly in the FTZ's where foreign companies have located in search of low labor costs and little interference in their operations. For example, unions in the FTZ's in San Pedro de Macoris report that their members hesitate to discuss union activity at work, even during break time, due to fear of losing their jobs.

Requirements for calling a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. The Government generally respects association rights and places no obstacles to union registration, affiliation, or the ability to engage in legal strikes. However, enforcement of labor laws is sometimes unreliable, inhibiting employees from freely exercising their rights.

In May nurses belonging to the National Union of Nursing Services and the National Union of Dominican Nursing Services unions went on strike to protest non-compliance with terms that the Ministry of Health agreed to in 1997. Issues of contention included a pay raise and a demand for hospital equipment. Sugar workers struck in La Romana in August to protest the company's failure to make bonus payments. Transportation workers struck in the Puerto Plata in September to protest rising fuel costs.

G & K Services, a company in San Isidro, fired 20 union members in April. No judicial action was taken because the company paid severance pay to the workers. A court judgment in April ordered Dennis Fashions, Inc., which had been closed since 1998, to provide severance pay to its 352 unionized employees. The company failed to comply with the judgment. A total of 350 unionized workers of Euromodas in Cristo Rey filed a lawsuit to collect severance pay after the company closed in 1998. In January the court ruled that Euromodas had to pay the workers; however, the company no longer exists. The owners of Euromodas opened a new company during the year, and in June former employees protested outside the new factory. Protesters were dispersed by the police, who arrested 35 of them and held them for 2 days without charges before releasing them.

In November 1999, employees of the FTZ company D & P Handbag in Santiago formed a union and filed the register of union members with the Director of Labor. This register was rejected because the Director General of Labor claimed that it did not contain the requisite number of members. In January the Ministry of Labor reversed this decision; however, the company did not permit formation of a union. At year's end, the case was still pending before a labor court in Santiago.

On December 29, 1999, the Supreme Court issued a judgment against Han Chang company. It upheld the decision of the lower court that the work contracts of five union leaders fired in 1995 were valid. The Court ordered that the workers be reinstated and paid back wages. The Bani company has failed to comply with the decision and the National Federation of Free Trade Zone Workers (FENATRAZONA) has asked for the cancellation of the company's export license. Legal authority to cancel export licenses lies with the National Council of Free Zones and is dependent on a request from the Ministry of Labor. The Ministry of Labor reported that this case was being mediated.

Labor unions can and do affiliate freely regionally and internationally.

b. The Right to Organize and Bargain Collectively.—Collective bargaining is legal and may take place in firms in which a union has gained the support of an absolute majority of the workers. Only a minority of companies have collective bargaining pacts, and the International Labor Organization considers the requirements for collective bargaining rights to be excessive and finds that in many cases they could impede collective bargaining. The Labor Code stipulates that workers cannot be dismissed because of their trade union membership or activities; however, in practice, workers sometimes are fired because of their union activities.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases do make their way through the labor courts, enforcement of judgments is sometimes unreliable.

The Labor Code applies in the 40 established FTZ's, which employ approximately 200,000 workers, mostly women. Workplace regulations and their enforcement in the FTZ's do not differ from those in the country at large, although working conditions are sometimes better and the pay is higher. Some FTZ companies have been

accused of discharging workers who attempt to organize unions, but there also have been reports of union organizers extorting money from business owners. In the FTZ's, while there may be as many as 10 collective bargaining agreements on paper, only 3 actually are functioning. The majority of the unions in the FTZ's are affiliated with the National Federation of Free Trade Zone Workers or the United Federation of Free Trade Zone Workers.

Many of the major manufacturers in the FTZ's have voluntary "codes of conduct," that provide for protection against forced labor, freedom of association, freedom from discrimination, and prohibit the use of child labor. They also call for a workplace that is safe and healthy. However, workers rarely have heard of such codes, or the principles they set out.

Tortoni Manufacturing closed its doors in April after unionized employees told management they wanted a collective bargaining agreement. New investors reportedly took control of the company, renamed it Gramerci Dominicana (a subsidiary of Andover) in July, and committed to pay the employees their severance pay. As of December 8, through mediation by the Secretariat of Labor, the employees were reinstated and had received the first of two installments of severance pay.

c. Prohibition of Forced or Compulsory Labor.—The law prohibits all forms of forced or compulsory labor, including that performed by children; however, such practices still exist to a limited extent in the adult worker population and, to a limited extent, among children in the informal sector. Young children "adopted" by families work under a kind of indentured servitude and homeless children are made to beg by adults (see Section 5). Trafficking in women and girls for purposes of prostitution is also a problem (see Sections 5 and 6.f.). The FENATRAZONA noted that there were over 40 reports of coerced overtime in factories. Workers gave examples of their employers locking factory doors with chains so they could not leave, and taking incentive pay away from or firing those who refused to work overtime. Union officials state that newly hired workers are not informed that overtime is optional. The Association for the Development of Women and the Environment reported several instances of forced adult labor in the sugar industry in the shantytowns of La Jagua, Sabana Grande de Boya, and Los Jovillos. Field guards reportedly kept workers' clothes and documents to prevent them from leaving. In January a field guard in Los Jovillos broke a worker's arm when he tried to leave.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Labor Code prohibits employment of children under 14 years of age and places restrictions on the employment of children under the age of 16. These restrictions include limiting the daily number of working hours to 6, prohibiting employment in dangerous occupations or in establishments serving alcohol, and limiting nighttime work. A company could face legal sanctions and fines if caught employing underage children. Children between the ages of 14 and 16 may work in apprenticeship and artistic programs. The law requires 6 years of formal education. Children who do not continue in school often seek illegal employment before reaching the minimum working age (see Sections 5 and 6.c.).

In August FENATRAZONA criticized the Overseas Manufacturing Corporation, in the FTZ in San Pedro de Macoris, for employing underage workers in the production of computer components. The Ministry of Labor carried out two investigations and found no workers under age 16. (FENATRAZONA asserted that the inspectors were denied entry on their first visit and that when they returned, the children had been removed. The Secretariat of Labor denied this version and said that the inspectors were never denied entry.) At the end of August the company was operating with only 20 workers, rather than the normal force of 60 to 80. According to the owner, the company was undergoing a work "slow down" due to lack of primary materials. At year's end, the company reportedly had closed.

The high level of unemployment and lack of a social safety net create pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children begin working before the age of 14. Child labor takes place primarily in the informal economy, small businesses, clandestine factories, and prostitution. Conditions in clandestine factories are generally poor, unsanitary, and often dangerous. The Government largely has eliminated the use of children for cutting sugar cane; however, there are still reports that poor Haitian and Dominican children accompany their parents to work in the cane fields, with the tacit acceptance of sugar companies.

gram in the area of child prostitution in Boca Chica and Puerto Plata. By November the Constanza program removed 500 children, twice as many as the targeted number, from work in hazardous agriculture, and placed them in schools.

The law prohibits forced or compulsory labor by children; however, such practices persist in the informal sector (see Section 6.c.). There were no reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work.—The Constitution empowers the executive branch to set minimum wage levels, and the Labor Code assigns this task to a national salary committee. Congress also may enact minimum wage legislation. The minimum monthly salary is \$135 (2,222 pesos) in the FTZ's and ranges from \$107 (1,757 pesos) to \$176 (2,895 pesos) outside the FTZ's depending upon the size of the company and the nature of the business. The minimum wage does not provide a decent standard of living for a worker and family. It only provides approximately one-third of the income necessary to sustain an average family. The national poverty level, which is based on a basket of goods and services consumed by a typical family, is \$402 (6,607 pesos) per month for a family of five.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The code also stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek is Monday through Friday plus a half day on Saturday, but longer hours are common. The code grants workers a 35 percent differential for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week.

Conditions for agricultural workers are poor, especially in the sugar industry. Most sugar cane worker villages have high rates of disease and lack schools, medical facilities, running water, and sewage systems. On sugar plantations, cane cutters usually are paid by the weight of cane cut rather than the hours worked. Employers often do not provide trucks to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dries and weighs less.

When the cane is weighed, workers are given tickets indicating the weight of cane cut (often rounded in favor of the employer) and the amount of money due. These tickets, issued to a specific person but payable to the bearer, may be turned in to the employer and redeemed for cash every 2 weeks. Many cane cutters earn less than \$4.00 (60 pesos) per day. Because workers earn so little and sometimes cannot wait until payday to redeem their tickets, an informal barter system has evolved in which the tickets also are used to purchase items at private stores located on the plantations. These private stores make change by giving back a combination of tickets and cash. However, it is not unusual for these stores to retain 10 percent of the cash due a customer.

The Dominican Human Rights Committee and batey residents report that conditions of work for cane workers have deteriorated since the industry was privatized in 1999. Workers reportedly are paid less, work longer hours, and have fewer benefits, according to the Committee. The Dominican Association of Sugar Technicians reported that before the October 1999 privatization of the industry, there were approximately 32,000 sugar industry workers, compared to approximately 3,200 at year's end. While child labor in the sugar industry has decreased significantly, it still exists according to human rights advocates and labor federations (see Section 5).

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. The existing social security system is seriously underfunded and applies to only about 9 percent of the population. Approximately 13,000 employees work in the IDSS bureaucracy to support fewer than 20,000 retirees.

Both the IDSS and the Ministry of Labor have small corps of inspectors charged with enforcing standards. The Secretariat of Labor has 250 inspectors who seek to improve sanitation, health care, and safety for workers. Included in this number is a smaller, specialized corps (eight in the National District) of inspectors for the FTZ's. Inspector positions customarily are filled through political patronage, and bribes from businesses are common. In practice, workers cannot remove themselves from hazardous working situations without jeopardizing employment (see Section 6.b.).

For example, an FTZ in Bonao, Bi Bong Apparel, fired several workers who, displeased with the safety of work conditions, cut wires to stadium lighting under which they were forced to work. In March the Labor Court held that the company should not have fired the workers and ordered an inspection. The Department of Hygiene and Safety carried out an inspection of the lighting, drinking water, bathrooms, and ventilation. According to the Ministry of Labor, inspectors found irregularities and made a series of recommendations. In November the workers returned to their jobs.

f. Trafficking in Persons.—The law prohibits trafficking in persons, and a 1998 alien smuggling law increased the penalties for those found guilty of various phases of this crime; however, trafficking in women and children from, to and within the country remains a serious problem. The penalties for trafficking are 3 to 10 years in prison, or, if there is a death, 10 to 20 years in prison, plus punitive damages.

Laws dealing with domestic violence, as well as the Minor's Code, create protection under both civil and criminal law against particular situations that may be conducive to, or acts that may be a part of, the traffic in persons, whether female or male, minors or adults. The law also prohibits acting as an intermediary in a transaction of prostitution, and the Government has used this law to prosecute third parties that derive profit from prostitution.

The Directorate of Migration estimates that there are approximately 400 rings of alien-smugglers, traffickers, and purveyors of false documents operating within the country. These individuals profit by facilitating the trafficking of women to Europe and the Eastern Caribbean under false pretenses and for purposes of prostitution.

In 1996 the Government created the Interinstitutional Committee for the Protection of Migrant Women (CIPROM); however, this organization ceased functioning due to lack of funding. One NGO, the Center for Integral Orientation and Investigation (COIN), counsels women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other issues including the dangers of trafficking, forced prostitution, and domestic servitude. The program also provides services to returning women. COIN administers the Center for Health and Migration Information for Migrant Women that carries out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. It also provides a information hotline and offers psychological, legal, and health counseling to returning women.

In January two journalists from the Spanish newspaper, *El Mundo*, made public a documentary that exposed a ring of traffickers of women to Europe. The ring included foreigners as well as local officials. The authorities arrested one military officer and deported one Dutch citizen. In July the Public Ministry dismantled a house of prostitution in which the majority of the prostitutes were from Europe and Russia. The leader of the operation, as well as the women themselves, fled the country before they could be prosecuted.

From January through August, the authorities dismissed 42 immigration employees for links with groups trafficking in persons. In addition authorities have charged at least 45 persons for allegedly organizing illegal trips under the 1998 anti-smuggling law. Of these, 30 persons were tried and 15 were convicted. Their sentences range from 3 to 5 years in prison. At year's end, 15 cases were pending.

The Oversight Organization for the Protection of Children coordinates the approaches of various agencies involved in combating trafficking in children, whether for adoption, sexual exploitation, or other purposes. This organization works with the Attorney General's office, the Public Health Ministry, Migration, and other agencies. In the National District, the Department of Family and Children in the Office of Public Prosecutor focuses on identifying children who are victims of abuse and prosecutes offenders under heightened penalties contained in the domestic violence law.

A primary concern of the Oversight Organization is preventing abuse of the child adoption process by those intending to sell or exploit children through prostitution or child pornography. The Department of Family and Children is very concerned about kidnappings, especially of infants, for sale to foreigners who deliberately have sidestepped legal formalities—including those of their own country. The Government seeks to protect children from victimization under the rubric of adoption. Many children leave the country as adoptees, but government officials have made such adoptions much more difficult and, they hope, have prevented would-be traffickers from abusing the system.

Poor Haitian and Dominican parents sometimes arrange for more prosperous Dominican families to "adopt" their children, in exchange for money or goods. Such children often are not treated as full family members and are expected to work long hours in domestic service, agriculture, or industry under threat of corporal punishment and without compensation. Especially in the case of girls, these children often are abused sexually.

ECUADOR

Ecuador is a constitutional republic with a 123-member unicameral legislature that was chosen in free elections in May 1998. On January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion and the proclamation of a "People's Parliament" by the coup leaders, on January 22, Vice President Gustavo Noboa assumed the presidency and restored order. At the end of May the Government extended a full amnesty to all those who participated in the overthrow of Mahuad. The judiciary is constitutionally independent, but in practice is inefficient and susceptible to outside pressure.

The military enjoys substantial autonomy, reinforced by assured revenues from the country's oil exports, as well as from civil aviation, shipping, and other commercial sectors. The National Police are responsible for domestic law enforcement and maintenance of internal order and fall under the civilian Ministry of Government and Police. In early January, then-President Mahuad declared a state of emergency, which gave him the power to use troops to monitor and react to public protests. The state of emergency lasted 1 month in most of the country, and until March in Guayas province. Throughout the year, the military continued to supplement the police on an ad hoc basis. Some military officers were forced to resign for their role during the events of January 21, despite the blanket amnesty. The police and, in some isolated cases, members of the military, continued to commit abuses.

The economy is in a severe economic recession, although it began to improve slightly during the year. The economy is based on private enterprise, although there continued to be heavy government involvement in key sectors such as petroleum, utilities, and aviation. The principal exports are oil, bananas, shrimp, and cut flowers, which are the country's leading sources of foreign exchange. Most citizens are employed in the urban informal sector or as rural agricultural workers; rural poverty is extensive, and underemployment is high. According to a 1999 study, approximately 62 percent of citizens live in poverty and 15 percent are indigent, with an almost total lack of resources. By the end of 1999, the incomes of approximately 56 percent of households were below the poverty line. The per capita gross domestic product (GDP) of \$1,053 provided most of the population with a low standard of living during the year. Per capita GDP was \$1,101 in 1999. In response to the recession, the Government announced in January that the country would adopt the U.S. dollar as its national currency and completed that process in September. Inflation for the year was 91 percent.

The Government's human rights record was generally poor in a number of areas, and serious problems remain. There were credible reports that police committed extrajudicial killings. Police tortured and otherwise mistreated prisoners and detainees, usually with impunity. Prison conditions remained poor. In August a law went into effect that is expected to either free or reduce the sentences of approximately 2,900 prison inmates for humanitarian reasons. Persons often are subject to arbitrary arrest and prolonged detention is a problem. Once incarcerated, persons may wait years before being convicted or acquitted. More than one-half of the prisoners in jail have not been sentenced formally. The Government failed to prosecute and punish human rights abusers. The most fundamental human rights abuses stem from shortcomings in the politicized, inefficient, and sometimes corrupt legal and judicial system. The Government infringed somewhat on press freedom and some self-censorship continues. The Government declared states of emergency during the year that limited freedom of assembly and movement. Violence and pervasive discrimination against women, indigenous people, and Afro-Ecuadorians also remain problems. The Government continued to order participants in nationwide strikes back to work, and arrested striking members of the National Teachers' Union. Child labor is a problem. Mob violence and killings persist.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no confirmed reports of politically motivated killings; however, there continued to be credible reports that police committed extrajudicial killings. Through December the Ecumenical Committee for Human Rights (CEDHU) reported a total of 15 extrajudicial killings by the police, security forces, or semiofficial entities such as neighborhood brigades. However, during the same period, the Permanent Committee for Human Rights (CDH) reported 20 cases of extrajudicial killings by the same groups in Guayas province alone. (Neighborhood brigades are civic defense groups organized by the National Police to provide an anticrime presence in neighborhoods. They are not au-

thorized to carry firearms, but often do.) In many of these instances, there was insufficient evidence to reach a conclusion as to what occurred; however, the killings sometimes exhibited a suspicious pattern.

On January 6, a crowd of residents from the evacuated town of Banos forced their way past a military roadblock in order to reoccupy their homes. (Banos had been evacuated due to the threat from a nearby active volcano.) A stray bullet fired by security forces struck and killed Edison Guato, and dozens of persons were injured during the melee (see Section 2.b.).

On May 13, in a remote northeast section of the Amazon near the Peruvian border, government security forces clashed with a previously unknown armed group calling itself the Revolutionary Armed Forces of Ecuador—Defenders of the People (FARE–DP). Two of its members were killed and five others were wounded and/or captured, including their purported leader, “Alex.” The authorities later maintained that the FARE–DP was criminal in nature and linked the group to a series of kidnapping and murder cases.

In Guayaquil on May 31, Guayas Transit Commission police reportedly shot 24-year-old civil engineer Cesar Matute nine times and killed him. Matute apparently failed to stop his truck at a police roadblock, thinking it was set up by robbers. The authorities suspended officers Alfonso Peasantes and William Jimenez. After an investigation by the fourth district police court, the two officers were exonerated and reinstated.

On June 5, in Guayaquil Special Operations Group police confronted a group of criminals that they were pursuing and killed seven persons; eight others reportedly escaped. Police stated that the robbers were armed heavily and strongly resisted arrest.

On August 28, in Portoviejo, police surprised 19 armed robbers attempting to hold up a local bank. Eleven of the gunmen were killed during the shootout and 8 escaped. Three policemen also were wounded. Police stated that all of the suspects refused to surrender. There was no investigation of the incident.

Also on August 28, in Guasmos Sur, members of an army patrol shot and killed Sergeant Carlos Lemos as he allegedly fled from them. Officials reported that Lemos had escaped 12 days earlier from a jail at the 5th Army Engineers headquarters where he was being held pending an investigation into the theft of rifles from an armory in Esmeraldas. Lemos’s lawyer and his family dispute the official version of events and claim that he was tortured and murdered. No official inquiry had been made by year’s end.

On December 4, 60-year-old Josefina Rios Murillos died after apparently being thrown from a police vehicle in Guayaquil. Her family said that the city’s recent “greater security campaign” had increased police brutality, and it has charged that Rios was struck on the head before being thrown out of the patrol car. At year’s end, the case was under investigation.

On February 9, the bodies of two men were found in different parts of Guayaquil. One was identified as a security guard mysteriously killed at a business from which nothing was stolen; the other was an unidentified individual whose corpse was dumped along the highway that circles the city. There have been other unsolved murders along this highway; for example, in May the bodies of John Merchan and Jacobo Moreira were found there—both had long criminal histories. Other bodies found on the highway include: On June 21, Adolfo Perez; on June 23, Francisco Pazmino; and on July 27, Angel Pacucar. Seven other bodies of suspected criminals also were found on the highway over a 4-day period in September. Some human rights groups suspect police involvement in these killings, but no investigation had been undertaken by year’s end.

In January a police court inquiry into the March 1999 killing of 14-year-old Mickey Mendoza concluded; the court charged policeman Carlos Alberto Iturralde Salazar with unintentional homicide. The court ruled that he had failed to maintain proper control of the weapon, which apparently went off when Mendoza tried to grab the gun. Iturralde was confined to police barracks pending trial. On January 13, the Mendoza family filed a dissent with the court asking that the second policeman on the scene also be tried, and that five policemen whom they believe conspired to cover up the incident be charged as accomplices. The charges were increased and, on July 17, Iturralde was found guilty of simple homicide; however, he was transferred to Cuenca and returned to full duty status pending the court’s issuance of a final decision. Late in the year, the authorities arrested Iturralde and jailed him pending the outcome of a sentencing hearing. Iturralde faces a sentence of up to 8 years’ imprisonment; however, the Mendoza family believes that the killing was premeditated and is seeking additional charges that would carry a longer sentence.

A court dismissed the case against Carlos Alulema, a policeman who shot and killed a cigarette vendor in July 1999 in Guayaquil, on the grounds that the police-

man was drunk and not responsible when he committed the crime. No information was available about the investigation into the killing by two police officers of Richard Morales Cabrera in November 1999 in Guayaquil, a shooting that also wounded several other persons.

The investigation continued into the February 1999 killing of Jaime Hurtado Gonzalez, an Afro-Ecuadorian member of Congress from the far-left Popular Democratic Movement (MPD) party; Pedro Tapia (Hurtado's alternate in the Congress); and Wellington Borja near the Supreme Court in Quito. The killings bore the hallmarks of a professional "hit," and the authorities have brought charges against several suspects, including police officers and a former police informant, in the killings. Several suspects were jailed and convicted, and their appeals were denied; at year's end, the investigation was still active.

There has been no disposition of the November 1998 kidnaping and killing in Quito of Saul Filormo Canar Pauta, a leader of the Ecuadorian Confederation of United Working Class Organizations. In December 1998, a municipal worker found Canar's body in a trash dump. His hands and feet were tied and his body showed signs of torture. The authorities suspect that he may have been killed by private landowners in retaliation for his activities organizing land invasions by squatters.

There also were instances in which citizens took the law into their own hands, inciting mob violence that resulted in lynchings and burnings of suspected criminals (see Section I.e.). Mobs killed at least 14 crime suspects in the first 11 months of the year; individual lynchings continued to occur in all parts of the country, especially in indigenous communities in remote areas of the highlands. For example, on August 13, in the indigenous community of Quilla Silla in Azuay province, local residents beat three men whom they accused of cattle rustling. As a result, 22-year-old Jorge Guanuci died, and two of his companions were injured seriously before firemen from a nearby town intervened.

Government officials reported the killings of 20 persons in the town of Lago Agrio during November and December. Most were killed execution-style as the result of conflicts between rival Colombian groups who had entered the country. In addition, in December another five persons were killed while travelling on a public bus outside of Lago Agrio when unidentified criminals blew up a section of the oil pipeline.

b. Disappearance.—There were no reports of politically motivated disappearances.

Criminal kidnaping for profit continued to be a problem. By mid-year the police antikidnaping unit reported 8 kidnaping cases and another 56 possible cases. On October 12, an unidentified armed group kidnaped a group of 10 oil workers near Pompeya, in Orellana province. The Government launched a major operation to find the victims and to investigate the perpetrators of this act. At year's end, eight oil workers still were being held.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The law prohibits torture and similar forms of intimidation and punishment; however, the police continued to torture and abuse suspects and prisoners, usually with impunity. Reports of abuse increased.

The CEDHU published detailed reports on suspects who reported being tortured by specific policemen. By December the authorities had registered 33 complaints of some form of torture by security forces. In most cases, the police appeared to have abused such persons during investigations of ordinary street crime. The victims reported that the police beat them, burned them with cigarettes, applied electric shocks, or threatened them psychologically. By year's end, human rights nongovernmental organizations (NGO's) had received at least 135 reports of incidents involving physical mistreatment.

For example, on January 29, near Milagros, an 18-year-old woman accepted a ride and a drink from policeman Freddy Veloz. She later awoke from a state of unconsciousness in a remote area after having been raped. The woman lodged a formal complaint in court, but there was no disposition in the case by year's end.

On March 2, in Guayaquil, off-duty CTG Corporal Miguel Noriega, in an inebriated state, shot and wounded Anabel Villegas in the hand and leg. Noriega subsequently was arrested, and the case was pending at year's end.

On August 24, in Guayaquil, police shot and wounded off-duty fireman Xavier Barrero, in a case of mistaken identity. Once police discovered their mistake, they then left the scene without providing any assistance to Barrero. Eventually, the police admitted their error and paid his medical bills.

Police corruption is a problem throughout the country. During the year, the police in Guayaquil dismissed 20 police officers for various reasons that included corruption.

Conditions in prisons and detention centers generally continued to be poor. Prisons in the tropical coastal areas tend to be worse than in the temperate highlands. For example, the Tomas Larrea prison in Portoviejo was built in 1930 to hold 150

inmates, but its current population exceeds 300. It has never been repaired or expanded and has many tunnels, which have contributed to some of the 30 successful escapes since 1970. Overcrowding also is a chronic problem elsewhere. There are no separate facilities for hard core or dangerous criminals, nor are there effective rehabilitation programs. New prisons have not been constructed due to lack of financial resources.

The Constitution requires that prisoners charged with lesser offenses (those carrying a maximum sentence of 5 years or less) and who have been detained for more than 1 year without a sentence obtain their freedom immediately. In January the National Directorate for Social Rehabilitation (DNRS) reported that 553 inmates had been released since the provision entered into force. On August 18, a law went into effect that is expected eventually to free or reduce the sentences of 2,947 prison inmates for humanitarian reasons.

In September 1999, the DNRS published a report that indicated that there were a total of 8,520 inmates incarcerated in facilities originally designed to hold a population of 5,964 prisoners. In 1998 a total of 26 inmates died in prison. The report stated that traumatic injuries, reportedly inflicted by fellow inmates, caused 65 percent of those deaths. It attributed the others to illness and drug use. The prison authorities routinely investigate deaths in custody. During the year, a number of prisoners experienced serious outbreaks of disease, including meningitis.

In September 1999, women represented 9.5 percent of the total prison population. Women are held separately from men, and conditions are notably better in the women's prison in Quito than in other facilities. There also are separate facilities for juveniles.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution and the Penal Code provide that no one may be deprived of liberty without a written order from a governmental authority; however, the authorities often violate these legal protections in practice, and arbitrary arrest and detention remain problems. For example, on January 28, in Azuay, the authorities arrested Maria Guatama, her daughter, and granddaughter; they spent a night in jail without any formal charges. The incident was traced to a disgruntled neighbor who apparently had friends on the police force. The family's release most likely was due to the fact that they could afford a lawyer.

The law requires the authorities to issue specific written arrest orders within 24 hours of detention—even in cases in which a suspect is caught committing a crime—and the authorities must charge the suspect with a specific criminal offense within 48 hours of arrest. All detained persons may challenge the legality of their detention by petition within 48 hours of their arrest, but in practice few such petitions are brought forward. The senior elected official (usually the mayor) of the locality in which the suspect is held reviews any such petitions. Regardless of the legality of a detention, a prisoner may be released only by court order. In some cases, detainees who are unaware of this, or who do not have the funds to hire a lawyer, may remain in prison for an extended period of time before being released. Bail generally is not available, and the law prohibits it in narcotics and major offense cases. Families of detainees sometimes attempt to secure the prisoners' freedom through illegal means.

Human rights organizations continued to report occasional cases of incommunicado detention, although the law prohibits this practice. Even when the police obtain a written arrest order, those charged with determining the validity of detention often allowed frivolous charges to be brought, either because they were overworked or because the accuser bribed them. The system frequently was used as a means of harassment in civil cases in which one party sought to have the other arrested on criminal charges. Preventive detention up to and including trial is legal if a judge determines that it is necessary and if evidence that a crime has been committed is presented.

As in the previous year, the authorities in Guayas Province arrested scores of persons under a state of emergency that was imposed from January until May. The measure was imposed to stem a soaring crime rate (584 persons died in violent crimes in the city of Guayaquil in 1999, and 104 kidnapping cases were registered.) The police often arrested persons on mere suspicion or for lack of proper identification; they released most of them a few days later.

The Constitution prohibits forced exile, and the Government does not use it as a method of political control.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, in practice the judiciary is susceptible to outside pressure and corruption. Despite efforts begun in 1992 to depoliticize and modernize the court system, the judiciary continues to operate slowly and inconsistently. Judges reportedly rendered decisions more quickly or more slowly depending on political pressure, or

in some instances, the payment of bribes. There are lengthy delays before most cases come to the courts.

The judiciary is composed of the Supreme Court, superior circuit courts, other courts and tribunals that hear cases in accordance with the Constitution and other laws, and the Judicial Council. There also are military and police tribunals that have the same status as circuit courts, while criminal, provincial, and cantonal courts serve as courts of first-instance.

The regular court system tries most nonmilitary defendants, although some indigenous groups try members independently for violations of tribal rules. The law permits police or military courts to try police officers and military defendants in closed sessions, in accordance with the respective military and police court martial manuals. Only the Supreme Court may try cases involving flag-rank officers. The police court does not announce verdicts or punishments, reinforcing the strong impression that the police are immune from prosecution. The 1998 Constitution placed both police and military justice under the control of the Supreme Court. However, the three systems have not yet been integrated.

The Supreme Court that took office in 1997 publicly recognized the shortcomings of the judicial system and pledged to improve the quality and training of judges. In May 1998, the Supreme Court supervised the selection by open competition of all appellate judges. A Judicial Council, charged with administering the court system and disciplining judges, took office in the fall of 1998. In November 1999, the Council's disciplinary committee fired two judges and two court employees for their role in the release of suspected drug traffickers. All four faced criminal charges. During the year, the Judicial Council removed at least two judges and a number of minor officials from their jobs.

The failures of the justice system contributed to a growing number of cases in which communities took the law into their own hands. There continued to be reports of lynchings and burnings of suspected criminals by outraged citizens (see Section 1.a.). These occurred particularly in indigenous communities and poor neighborhoods of major cities where there is little police presence.

The law provides for internationally accepted due process rights for criminal defendants, but the authorities, including the Chief Prosecutor's office, often did not observe these rights in practice. By law, the accused is presumed innocent until proven guilty and defendants have the right to a public trial, defense attorneys, and appeal. They may present evidence, refuse to testify against themselves, and confront and cross-examine witnesses. Although a public defender system exists, in practice there are almost no attorneys available to defend the large number of indigent suspects.

Trial is supposed to begin within 15 to 60 days of the initial arrest; however, in practice initiation of the trial phase can take years. Less than 40 percent of all those incarcerated have been convicted and sentenced. Accused narcotics traffickers and suspects in major crimes cannot obtain bail or be released on their own recognizance.

In November 1999, Congress passed a new Criminal Procedures Code. Then-President Mahuad proposed changes in December 1999, which Congress accepted in January. The code is scheduled to take effect in July 2001, and is intended to change the criminal justice system from an inquisitorial to an accusatorial-style system. The Chief Prosecutor's office is to investigate and prosecute crimes, while the role of judges is to change to that of neutral arbiters presiding over oral trials. The new code is a step toward implementation of provisions in the 1998 Constitution intended to strengthen the justice system by improving due process and enhancing the rights of the accused, through measures such as habeas corpus and limits on preventive detention.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanctions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech, and the authorities generally respected this provision in practice; however, there were some notable exceptions. There are frequent charges of slander and libel brought by and against public figures, but few result in final decisions or judicial relief. On April 19, the President of Congress announced that press coverage of congressional proceedings would be restricted to an audio broadcast; following vigorous protest by the press, which formerly had enjoyed wide access to Congress, he announced that separate areas would be set aside for live coverage of sessions. Some self-censorship continues.

There is a free and vigorous press. Ownership of the media is broadly based, and editorials represent a wide range of political views and often criticize the Government. However, some degree of self-censorship in the print media occurs, particularly with respect to politically sensitive issues or stories about the military and its related industries. In addition, most elements of the media were influenced by economic considerations and tend to reflect the narrow, regional interests of their owners.

All of the major media organs—newspapers, radio, and television—are locally and privately owned, except for one government-owned national radio station. The law limits foreign investment in broadcast media. Using a law promulgated by the last military regime that requires the media to give the Government free space or broadcast time, the Government can and does require television and radio to broadcast government-produced programs featuring the President and other top administration officials.

On February 16, in Guayaquil, Rafael Cuesta, the news director of the Tele Centro television station was injured severely by a bomb contained inside a videocassette. Congresswoman Cinthya Viteri and indigenous leader Marco Murillo also received videocassette bombs in the mail; however, because of the Cuesta incident they were suspicious and alerted the police, who defused the devices. Police were unable to discover who sent the bombs.

Near the end of the year, the mayor of Guayaquil banned a guidebook that contained negative comments about the city.

The Constitution provides for academic freedom, and the Government does not interfere in issues involving academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of free assembly for peaceful purposes, and the Government generally respected this right in practice; however, there were some limits. In February President Noboa decreed a nationwide state of emergency that lasted until March and limited freedom of assembly. Public rallies require prior government permits, which generally are granted, although exceptions occur. In January protesters took over the congressional building and, joined by military leaders, forced the resignation of President Mahuad (see Section 3). Numerous other labor and student demonstrations took place without major incident in the capital and the outlying regions during the year. Protesters often blocked roads. On January 6, police in Quito and Guayaquil arrested 46 protesters, and in Quito 1 student was shot and injured; some protesters were armed, and the police denied responsibility. In general the security forces intervened in demonstrations only when there was violence against bystanders or destruction of property. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 6.a.). Police also used tear gas against protesting members of the National Teachers' Union. On April 17, members of the Evangelical Indigenous Movement (FEINE) and the Federation of Indians, Campesinos, and Blacks (FENOCIN) occupied the Government's Indigenous Affairs Office.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Government does not require religious groups to be licensed or registered unless they form NGO's that engage in commercial activity. Approximately 90 percent of the population consider themselves to be Roman Catholic, although most citizens do not regularly practice the religion or follow a syncretistic version that combines indigenous beliefs with orthodox Catholic doctrine. The Government allows missionary activity and religious demonstrations by all religions. The Government does not permit religious instruction in public schools; private schools are permitted to teach religion, as are parents in the home. There are no restrictions on publishing religious materials in any language. In early 1998, police in Pinchincha suspended the meetings of a group known as "Gnostico Cristiano Universal," following the suicide of 29 members of the "Heaven's Gate" cult in California, while they investigated possible links between the two groups. The Government's investigation was inconclusive, and the groups have resumed their activities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government generally respects them in practice; however, frequent military and police roadblocks often present problems for travelers using public transportation, especially at night. The Government requires all citizens to obtain exit visas when travelling abroad, which are granted routinely. Military and minor applicants must comply with special requirements.

The law includes provisions for granting refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

According to the UNHCR, since September approximately 1,600 Colombian refugees arrived in the country, most of whom fled due to fighting between guerrillas and paramilitary forces in the Colombian department of Putumayo. The Government and the UNHCR have developed a three-point contingency plan to cope with the refugee influx into Sucumbios province. In November nine persons occupied offices of a Catholic Church in Quito that worked with the UNHCR to screen and register refugees. The occupation ended peacefully after 48 hours.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, on January 21, members of the military joined protesters, including indigenous dissidents, to force President Jamil Mahuad from office. After a brief period of confusion during which the leaders of the coup announced the dissolution of the three branches of government and the formation of a "People's Parliament," on January 22, Vice President Gustavo Noboa assumed the presidency and restored order.

On January 19, approximately 6,000 persons including members of the Confederation of Ecuador's Indian Nationalities (CONAIE), students, and leftwing political protesters marched in Quito. On January 21, thousands of protesters, including members of CONAIE, students, teachers, and union members, occupied and took control of the congressional building in Quito. The police and military guarding the building did not oppose the occupation with force, and over 100 soldiers joined the protesters. CONAIE leader Antonio Vargas announced on television from the floor of Congress that he would head the People's Parliament. He also said that retired army Colonel Lucio Gutierrez would join him in a new "ruling junta" as the executive, and that former Supreme Court President Carlos Solorzano would take over the role of Supreme Court President. The protesters called for President Mahuad to resign. (There also were protests in Guayaquil, where a group of students, unionists, and neighborhood associations seized the provincial government building.)

President of Congress Juan Jose Pons described the small military group that joined the protests as "seditious" and called for support for the democratically elected Government. Mahuad then spoke on television and refused to resign. On the afternoon of January 21, the armed forces service chiefs and joint staff chief General Carlos Mendoza called for the President to resign. Mahuad resisted the call to resign but later fled the palace. The junta (also called the "triumvirate") originally was composed of Vargas, Solorzano, and Colonel Gutierrez. Later during the night of January 21, at the palace, General Mendoza briefly joined the junta, replacing Colonel Gutierrez. On January 22, President Mahuad appeared again on television and accepted Vice President Gustavo Noboa as president; on the same day, Congress ruled that Mahuad had deserted his post. With Noboa's assumption of office, order was restored.

On January 22, Congress sanctioned two of its members Democratic Left representatives (and former army generals) Paco Moncayo and Rene Yandun for their role in the coup and removed them from their seats in the Congress.

On February 4, General Norton Narvaez, the head of the armed forces, announced that a military court had found 113 soldiers, 17 of whom were in jail, guilty of breach of discipline and breaking their oath for taking part in the coup. They were put on administrative leave and confined to barracks. General Mendoza resigned.

On May 31, Congress approved an amnesty for army officers involved in the coup, and those held in prison were released. On June 5, the 17 most senior imprisoned officials were placed on 48-hour administrative leave. Colonel Gutierrez served 4 days in jail for a "breach of discipline," i.e., for his interviews with the press. On June 12, the military forced Colonel Gutierrez and 11 other officers to resign despite the blanket amnesty.

On July 13, Supreme Court President Galo Pico issued arrest warrants for former President Mahuad and his former finance minister for crimes in connection with the freezing of bank assets in March 1999.

Voting is mandatory for literate citizens over 18 years of age and voluntary for illiterate citizens. The law does not permit active duty members of the military to vote. The Constitution bars members of the clergy and active duty military per-

sonnel from election to Congress, the presidency, or vice presidency. The Constitution provides that if a political party fails to garner a minimum of 5 percent of the votes in two open elections, the party must be eliminated from the electoral registry.

In August a dispute arose over who had the right to be elected president of Congress. After a Constitutional Court ruling forced Susana Gonzalez from office following a challenge, Hugo Quevedo was elected. He later defeated a challenge to his own election and remained in office at year's end.

No specific laws prevent women or minorities from attaining leadership positions; however, few women, indigenous people, or Afro-Ecuadorians occupy senior positions in government. Women are underrepresented in politics and government, although they have made gains in recent years. Women hold 17 of 123 seats in Congress, the largest proportion of seats held by women in the country's history. There is one female cabinet minister.

The indigenous movement, which previously shunned traditional politics, formed an electoral movement called Pachakutik (which means "cataclysmic change" in Quichua) and ran candidates for national, provincial, and local office in the 1996, 1998, and 2000 elections. A Pachakutik Congresswoman, Nina Pacari, formerly the Second Vice President of Congress, is part of an eight-member congressional bloc whose cooperation with the majority in Congress on some issues has ensured it significant influence. The politically active Confederation of Ecuador's Indian Nationalities, headed by Antonio Vargas, was at the forefront of protests that overthrew then-President Mahuad. Indigenous members of the National Constituent Assembly and their supporters won important constitutional protections for indigenous rights in the 1998 Constitution. There are 3 indigenous deputies serving in the 123-member Congress.

One Afro-Ecuadorian serves as a member of Congress, but none are found in senior-level government jobs.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operate without restriction, investigating and publishing their findings on human rights cases. Domestic human rights groups, such as the CEDHU and the regional Latin American Human Rights Association (ALDHU), were outspoken in their criticism of the Government's record on specific cases. Nevertheless, the Government contracted with the ALDHU to provide human rights training to the military and the police.

The office of the Ombudsman was created in 1998 to ensure ongoing attention to human rights problems; however, some observers have criticized its independence in practice. In May Congress removed the Ombudsman from office on charges of fraud for acts that he committed while he was acting Attorney General. As of year's end, Congress had not named a replacement, and Claudio Mueckay was acting Ombudsman at year's end.

In 1998 the Government decreed an ambitious National Human Rights Plan with the goal of preventing, penalizing, and eradicating human rights violations in the country. The three branches of government, as well as the independent Ombudsman's office and a number of NGO's, contributed to development of this plan. At the end of 1999, the U.N. had contributed \$1.2 million to support the plan. The plan includes education for the Congress on human rights matters. The Government began to implement various aspects of its plan, including seminars, publishing documents, and a contingency plan for refugees.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, religion, sex, or social status. In addition, the constitutional reforms explicitly increased the rights of women, children, and minorities, and required Congress to pass legislation implementing these rights promptly. However, women, indigenous people, and Afro-Ecuadorians continue to face significant discrimination.

Women.—Although the law prohibits violence against women, including within marriage, it is a widespread practice. The 1995 Law Against Violence Affecting Women and Children criminalized spousal abuse, including physical, sexual, and psychological abuse; created family courts; and reformed the Penal Code to give courts the power to separate an abusive spouse from the home. Although nationwide statistics were not available, according to an NGO in Guayaquil, that city registered more than 32,000 official complaints of domestic violence between May 1998 and May 1999, almost double the previous period's figure. The NGO's report also said that one out of three women suffered from some form of domestic violence. Women may file complaints against a rapist or an abusive spouse or companion only if they

produce a witness. Many rapes also are not reported due to the victims' reluctance to confront the perpetrators. The penalty for rape is a jail sentence of up to 16 years. In cases of statutory rape involving "amorous" sex with a minor, if the rapist marries the victim the charges against him, or anyone else who took part in the rape, cannot be pursued unless the marriage subsequently is annulled. While some communities have established their own centers for counseling and legal support of abused women, the Government only began to address this problem seriously with the 1994 formation of the Women's Bureau. Although this office can accept complaints about abuse of women, it has no authority to act on the complaints. However, the Women's Bureau has doubled the number of its outreach offices and actively referred abuse cases to prosecutors.

Sexual harassment in the workplace is common.

Adult prostitution is legal.

Discrimination against women is pervasive in society, particularly with respect to educational and economic opportunities for those in the lower economic strata. The increasingly active women's movement alleges that culture and tradition inhibit achievement of full equality for women. There are fewer women than men in the professions and skilled trades, and pay discrimination against women is common.

The Ecuadorian Women's Permanent National Forum, founded in 1994, includes more than 320 women's organizations and promotes social, economic, and cultural change through various methods, including increasing political participation by women. In addition the National Women's Council provides support for approximately 500 women's organizations, many of which promote social consciousness and greater participation by women in the political process. The Women's Political Coordinator, an NGO that operates in 17 provinces, promotes similar themes relating to women's rights, with an emphasis on political participation and human rights. It also focuses on young women and Afro-Ecuadorian women.

Children.—According to the National Statistics Institute, in 1999 approximately 47 percent of the population was under the age of 18. The Government has not taken effective steps to promote the welfare of children. The Constitution requires that children achieve "a basic level of education," estimated at 9 years of school; however, the Government rarely enforces this requirement in practice (see Section 6.d.). Education is free.

There is no societal pattern of abuse against children. Government resources to assist children traditionally have been limited, although the Government operates a program to care for the children of the working poor called "Operation Child Rescue." The Inter-American Commission on Human Rights has concluded that this program reached only a small percentage of those affected. Approximately 45 percent of children under the age of 5 are malnourished. Government spending on education continued to decline, both in real terms and as a proportion of GDP. There are more than 20 NGO's that promote child welfare.

Several private organizations are very active in programs to assist street children, and UNICEF also runs a program in conjunction with the Central Bank. The children of the poor often experience severe hardships, especially in urban areas. Children as young as 5 or 6 years of age often sell newspapers or candy on the street to support themselves or to augment family income. Also, there are reports of prostitution by girls and boys under 18 years of age in urban areas, and there have been reports of cases in which children were forced into prostitution. In rural areas, young children often must leave school at an early age to help out on the family's plot of land.

People with Disabilities.—There is no official discrimination against disabled persons in employment, education, or the provision of other state services. However, there are no laws to ensure disabled persons access to public buildings or services, nor are they provided any other special government assistance. In June the city of Guayaquil began a modest program to give the disabled better access to public buildings.

Indigenous People.—While at least 85 percent of all citizens claim some indigenous heritage, culturally indigenous people make up about 15 to 20 percent of the total population. The vast majority live in rural areas, including the highlands and the Amazonian provinces, and most live in varying degrees of poverty. Land is scarce in the more heavily populated highland areas where high infant mortality, malnutrition, and epidemic disease are common. Electricity and potable water often are unavailable. Although the rural education system is seriously deficient, many indigenous groups participated actively with the Ministry of Education in the development of the bilingual education program used in rural public schools.

The Constitution recognizes the rights of indigenous communities to hold property communally, to administer traditional community justice in certain cases, and to be consulted before natural resources are exploited in community territories. Indige-

nous people also have the same civil and political rights as other citizens. In the Amazon area, indigenous groups have lobbied the Government, enlisted the help of foreign and domestic NGO's, and mounted protests (including kidnaping oil workers and tourists), in their attempts to win a share of oil revenues and a voice in exploitation and development decisions. The Constitution expressly recognizes the indigenous communities' rights to be consulted on, but not to approve, oil exploration and development. Oil companies have increased their efforts to minimize the environmental and social impact of their oil projects in the Amazon but continue to face criticism from indigenous groups that environmental damage still is occurring.

Despite their growing political influence and the efforts of grassroots community groups, which were increasingly successful in pressuring the central Government to assist them, Indians continue to suffer discrimination at many levels of society. With few exceptions, indigenous people are at the lowest end of the socioeconomic scale. For example, by one UNICEF estimate in 1999, 83 percent of indigenous children worked at some kind of job (see Section 6.d.).

CONAIE was at the forefront of protests that toppled President Mahuad (see Section 3). It also has arranged a popular referendum and public demonstrations to protest government economic austerity measures and to urge the repeal of economic modernization laws involving privatization of state-owned enterprises.

Religious Minorities.—Although relations between religious communities generally have been amicable, in past years there have been a few incidents of interreligious or intrareligious tension or violence.

A Baptist clinic in the town of Chachas is operating normally, following opposition to its establishment from local residents in April 1999.

National/Racial/Ethnic Minorities.—The population of the rural, northern coastal area includes large numbers of Afro-Ecuadorian citizens. They suffer widespread poverty and pervasive discrimination, particularly with regard to educational and economic opportunity. There are no special government efforts to address these problems.

There are five major Afro-Ecuadorian organizations active in the country; the largest is the Confederacion Nacional Afroecuatoriana, with headquarters in Quito. It estimates that Afro-Ecuadorians account for more than 1 million persons, or about 10 percent of the total population. While the presence of Afro-Ecuadorians has grown in the fields of sports and culture, their educational opportunities continue to be limited.

The press has focused on lingering racism among all strata of society. Afro-Ecuadorian organizations note that despite the absence of official discrimination, societal discrimination continues to affect them. For example, they assert that the police stop Afro-Ecuadorians for document checks with greater frequency than other citizens.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and Labor Code provide most workers with the right to form trade unions. Members of the police, the military, and public sector employees in nonrevenue producing entities are not free to form trade unions. The 1991 Labor Code reforms sets the number of workers required for an establishment to be unionized at 30, which the International Labor Organization's Committee on Freedom of Association considers too stringent a limitation at the plant workers' council level. Although the Congress debated additional labor reforms, labor law was in flux at year's end because the Constitutional Court ruled that some recent labor legislation was unconstitutional. The court's ruling nullified several articles that the Government stated provided flexibility to employers, but that some observers claimed undercut constitutional protections of worker rights.

While employees of state-owned organizations enjoy rights similar to those in the private sector, the law technically prevents the majority of public sector employees from joining unions or exercising collective bargaining rights. However, most public employees maintain membership in some labor organization, and there are frequent "illegal" strikes. Despite official threats, the Government rarely takes action against striking public workers. However, in May the Government ordered striking teachers back to work and arrested and temporarily jailed National Teachers' Union (UNE) leaders. A November 1997 law prohibits public sector strikes if they paralyze key services, including schools.

Although the labor confederations are politically independent, the two largest single labor unions, the UNE and the Union of Social Security Workers, are allied with the Democratic Political Movement, a communist party. Approximately 12 percent of the work force is organized. There are four large labor centrals or confederations. None of the main labor centrals is connected firmly to any one political party, and there are no ties between the Government and any labor union.

There are few restrictions on the right of workers to strike, although a 10-day cooling-off period is required before a strike can be declared. The Labor Code revisions limit solidarity strikes or boycotts to 3 days, provided that the Labor Ministry approves them. In a legal strike, workers may take possession of the factory or workplace, thus ending production at the site, and receive police protection during the takeover. The employer must pay all salaries and benefits during a legal strike; the Labor Code protects strikers and their leaders from retaliation.

There were several significant strikes during the year, mainly in response to government austerity measures. They involved public sector employees such as teachers and social security and medical workers, as well as petroleum, electricity, and transportation workers; indigenous groups also protested during the strikes. Police in Quito used tear gas in January, March, and September to repel demonstrators who sought access to the city center (see Section 2.b.). In April public sector bureaucrats went on strike to demand higher wages. In May the Public Teachers Union (UNE) began a countrywide strike for higher wages, and a judge issued an arrest warrant for Arcelly Moreno, the president of the UNE. The strike lasted more than 2 months; some striking teachers were detained for as long as 10 days. In December health workers held a strike for 2 weeks.

Unions may freely form and join federations or confederations, and three of the large labor centrals maintain international affiliations.

b. The Right to Organize and Bargain Collectively.—The labor market is highly segmented, with a minority of workers in skilled, usually unionized, positions in state-run enterprises or in medium to large industries. Most of the economically active population is employed in the agricultural sector or the urban informal sector; the vast majority of these workers are not organized. The Labor Code requires that all private employers with 30 or more workers belonging to a union must negotiate collectively when the union so requests. Collective bargaining agreements cover only one-quarter of the approximately 12 percent of the work force that is organized. In March a new labor law allowed businesses to hire workers on “individual contracts,” but the practice did not become prevalent because Congress was reconsidering the law at year’s end.

The Labor Code streamlined the bargaining process in state enterprises by requiring workers to be represented by only one labor union. It prohibits discrimination against unions and requires that employers provide space for union activities upon the union’s request. The law does not permit employers to dismiss a worker without the express permission of the Ministry of Labor, whose rulings are not subject to judicial review. If the Ministry of Labor rules that a dismissal is unjustified, it can require the employer to pay large indemnities or separation payments to the worker, although the reforms set a cap on such payments. A fired worker is eligible for reinstatement and in general would not be blacklisted at other companies. Workers generally are protected against antiunion discrimination only by pressure from the union. The Labor Code provides for resolution of labor conflicts through an arbitration and conciliation board which consists of one representative of the Ministry of Labor, two from the union, and two from management.

The 1990 Maquila Law permits the hiring of temporary workers for the maquila (in-bond processing for export) industries only. While there is no express prohibition on association rights in the Maquila Law, in practice it is difficult to organize temporary employees on short-term contracts. Since temporary workers are not recognized by the Labor Code, they do not enjoy the same level of protection offered to other workers. The maquila system allows a company and its property to become an export-processing zone wherever it is located. Many such “zones” have been established; most are relatively small and are dedicated to textiles and fish processing.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the Labor Code prohibit compulsory labor, and there were no reports of it in general. There have been reports of children forced into prostitution (see Section 5), but there were no other reports of forced or bonded labor by children.

d. Status of Child Labor Practices and Minimum Age for Employment.—The law prohibits boys younger than 12 years old and girls younger than age 14 from working, except in special circumstances such as apprenticeships. It requires children between the ages of 12 or 14 and 18 years to have the permission of their parent or guardian to work. The law also prohibits children between the ages of 14 and 18 years from working more than 7 hours per day or 35 hours per week, and it restricts children below the age of 14 years to a maximum of 6 hours per day and 30 hours per week. In practice the Ministry of Labor fails to enforce child labor laws, and child labor is prevalent. The problem has increased in recent years due to the prolonged economic crisis, and urban child labor has increased with the migration of the rural poor to the cities. A UNICEF report estimated that in 1997, 37 percent of the 2.1 million children between the ages of 10 and 17 worked; in 1999 almost

1 out of 2 children in this age bracket worked. A 1999 report based on a joint national and World Bank study found that 45 percent of children between the ages of 10 and 17 worked at least parttime. Among children aged 10 to 11, who cannot work legally, 28 percent worked at least part-time nationwide. More than 60 percent of all children live in rural areas and do unpaid agricultural work for their families.

The Constitution provides that children must attend school until they attain a "basic level of education" estimated at 9 school years. However, due to the lack of schools in many rural communities, the Government's failure to provide adequate resources, and the need for children to work, this provision rarely is enforced. UNICEF reported in 1999 that one out of three children did not remain in school long enough to complete the 6th grade. The Constitution provides that 30 percent of the public budget must be devoted to education; however, in practice only half of that amount is spent. The Government has programs in 18 urban areas that provide families with educational subsidies as an incentive to keep children in school. In rural areas, many children attend school only sporadically after about 10 years of age in order to contribute to household income as farm laborers.

In the city, many children under 12 years of age work in familyowned "businesses" in the informal sector, shining shoes, collecting and recycling garbage, or as street peddlers. Others are employed in commerce, messenger services, domestic service, and begging. Child prostitution is a problem, and there have been cases reported of children being forced into prostitution (see Section 5). The law prohibits forced or bonded labor by children, and there were no other reports of such practices (see Section 6.c.).

e. Acceptable Conditions of Work.—The Ministry of Labor periodically sets the minimum wage in consultation with the Commission on Salaries, but Congress also may adjust it. As of August, the minimum wage plus mandated bonuses provided a gross monthly compensation of approximately \$110, or 50 cents per hour in the case of contract workers. The statutory minimum wage is not adequate to provide a decent standard of living for a worker and family. Most organized workers in state industries and formal sector private enterprises earned substantially more than the minimum wage and also received other significant benefits through collective bargaining agreements. However, the majority of workers work in the large informal and rural sector without recourse to the minimum wage or to legally mandated benefits.

The Ministry of Labor has the principal role in enforcing labor laws and carries this out through a corps of labor inspectors who are active in all 22 provinces. The Labor Code provides for a 40-hour workweek, a 15-day annual vacation, a minimum wage, and other employer-provided benefits, such as uniforms and training opportunities. In March reforms to the labor law nominally gave greater flexibility to employers by hiring parttime workers, such as accountants, for only a few hours per week. However, this legislation was affected by a Constitutional Court decision (see Section 6.a.).

The Labor Code also provides general protection for workers' health and safety on the job. However, a worker may not leave the workplace of his own volition, even if there is a hazardous situation. The worker is allowed to request that an inspector from the Ministry of Labor come to the workplace and confirm the hazard; that inspector then may close down the workplace. Response time for inspectors ranges from a few days in major cities to much longer in the countryside.

The Government enforces health and safety standards and regulations through the Social Security Institute. In the formal sector, occupational health and safety is not a major problem. However, there are no specific regulations governing health and safety standards in the agricultural sector and in practice there is no enforcement of safety rules in the small mines that make up the vast majority of the mining sector. During the year, at least two fatalities were reported due to accidents in the mines.

f. Trafficking in Persons.—There is a misdemeanor law that addresses trafficking in persons; it provides for penalties from 6 months to 3 years in prison, as well as fines. The Migration Law and the Penal Code provide for the imposition of sanctions on suppliers of false documents for purposes of travel or work. Other laws dealing with kidnapping, labor, occupational safety, and slavery apply to and provide sanctions for trafficking in persons. In June Congress amended the Criminal Code to strengthen sentences for furnishing or utilizing false documents and for alien smuggling. Alien smugglers or traffickers can receive sentences from 3 to 6 years' imprisonment; the penalties range from 6 to 9 years' if victims are injured, and a penalty of up to 12 years may be imposed if a death occurs. The law specifically exempts victims from prosecution. There were no confirmed reports of persons being trafficked to, from, within, or through the country against their will; however, there were many reports of persons being smuggled illegally from the country to the

United States through Central America in which trafficking sometimes was suspected. In 1999 police in Spain reported that they had arrested 50 Ecuadorian women working as prostitutes who were likely victims of trafficking.

EL SALVADOR

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. President Francisco Flores of the Nationalist Republican Alliance (ARENA) was elected in 1999 to a 5-year term. In free and fair elections in March, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA maintains a working majority in coalition with the conservative National Conciliation Party. Three other parties hold seats in the Assembly. The judiciary is constitutionally independent but suffers from inefficiency and corruption.

The National Civilian Police (PNC) maintains internal security. The military is responsible for external security. The military provides support for some PNC patrols in rural areas, a measure begun in 1995 by presidential executive order in an effort to contain violence by well-armed, organized criminal bands. In March at the President's direction, the air force, navy, and selected army units formed Joint Task Groups with the police as part of an interagency antinarcotics program. Civilian authorities maintain effective control of the military and security forces. Some members of the police committed human rights abuses.

The country has a free-market, mixed economy largely based on services, agriculture, and manufacturing. Although agriculture accounts for only 12 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 35 percent of the work force, estimated at 2.3 million persons. Coffee and sugar are the principal export crops and important sources of foreign exchange. The manufacturing sector, which contributes 21 percent of GDP, employs 9 percent of the work force. The textile sector, especially the maquila (in-bond assembly or processing) plants in free trade zones, represents about 50 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth was estimated to reach 2.5 percent during the year. Inflation was 3.6 percent. Per capita GDP reached \$2,080. The official unemployment rate averaged 7.7 percent during the year, 6.5 percent urban and 11 percent rural; however, the rate of underemployment (less than full-time work or total income below the minimum wage) was estimated at about 30 percent. Approximately 44 percent of the population lives below the poverty level.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police officers committed extrajudicial killings. The Supreme Court found the 1993 Amnesty Law constitutional but noted that certain categories of crimes were not covered. Police kidnaped persons for profit. The police used excessive force and mistreated detainees; there were also allegations that police abused street children. Prison conditions remained poor. High crime rates, together with police officer involvement in prominent kidnappings, led to the creation of a presidential commission to discipline and dismiss corrupt and criminal police. Police arbitrarily arrested and detained persons. The judiciary remained inefficient and is hampered by widespread corruption. Impunity for the rich and powerful remained a problem. The authorities used force to disperse one demonstration; one person was injured. In February Human Rights Ombudsman Eduardo Penate Polanco resigned over misconduct charges; the Legislative Assembly had not named a successor at year's end. Violence and discrimination against women continued, and discrimination against disabled persons also remained a problem. Abuse of children, child labor, and forced child prostitution were also problems. The Government did not adequately protect workers' rights to organize and bargain collectively. Trafficking in women and children is a problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political killings by agents of the Government; however, the police committed some extrajudicial killings.

During the year, the Human Rights Ombudsman's office received for investigation 87 cases alleging killings by the PNC during the year and in prior years. As of November, the presidential commission investigating police misconduct identified at

least 72 officers suspected of extrajudicial killings during the year and in prior years.

On February 10, police shot at the tires and windshield of a vehicle that failed to obey their signal to stop on a major thoroughfare in San Salvador. When the vehicle halted, passenger Salvador Hernandez fled, and a police officer shot and killed him. The prosecutor charged Mario Orlando Franco Duran with aggravated homicide. He also charged Franco and three other officers with the attempted murder of Edwin Quintanilla Flores and Ricardo Trejo Stanley, the vehicle's driver and another passenger. On December 11, a judge determined that there was sufficient evidence to support the homicide charge for the trial of Franco to proceed to the next phase; however, the judge dismissed the attempted homicide charges against the defendants on grounds that it was impossible to determine which officers intended to shoot at the vehicle's windshield. The prosecutor appealed the latter verdict, and the appeal was pending at year's end.

On April 7, police driver Mauricio Enrique Martinez shot and killed Luis Edgardo Garcia Vasquez after he failed to stop when signaled by police on the highway between Santa Ana and Ahuachapan. Two police officers and two police drivers pursued him and shot out his tires. When the vehicle stopped, Martinez opened the door and shot Garcia in the head. In December a court convicted Martinez of aggravated murder and sentenced him to 28 years in prison. The two officers were acquitted, and charges were dropped against the other driver, who became a witness in the case.

In June PNC officer Luis Alonso Navarrete was on duty with a Joint Task Group (composed of soldiers and police) when he allegedly shot and killed six persons and wounded four others with an M-16. Five of the victims were soldiers who formed part of his Joint Task Group. Police arrested Navarrete the same day; he reportedly suffered from mental illness. The PNC disciplinary committee dismissed Navarrete from the police in September. He remained in custody awaiting trial on charges of aggravated homicide and attempted aggravated homicide at year's end.

A total of 13 inmates died in prison due to violence and illness (see Section 1.c.). There was mixed progress in resolving cases of extrajudicial killings from previous years.

In October a court sentenced police officer Jose Miguel Soriano Melgar to 12 years in prison for the November 1999 shooting of Carlos Lopez Regalo. The court acquitted police captain Erick Fuentes of the charge of aggravated homicide. That verdict was appealed in November; the appeal was pending at year's end.

In July a police disciplinary tribunal removed from the force five officers charged with the November 1999 beating death of Manuel de Jesus Parada. In October a jury acquitted four of them of the crime; it issued no verdict for the fifth officer, who had fled prosecution and did not appear for the trial.

In October a court found three PNC officers guilty of attempted homicide for torturing Juan Carlos Miranda before stabbing him and stealing his vehicle (see Section 1.c.).

In November a court convicted police officer Jorge Alberto Canas Sanchez of aggravated homicide and sentenced him to 30 years in prison for the August 1999 murders of Fernando Hernandez and Manuel Aguilar. Two other officers charged with the crime remained fugitives at year's end. A judge provisionally acquitted another individual who had been charged with complicity. The prosecutor's appeal was pending at year's end.

In February a court dismissed charges against a police officer in the August 1999 shooting of a protester near Sonsonate during a confrontation between police and several hundred members of the Association of Salvadoran Agricultural Producers. The prosecutor appealed, but the appeals court upheld the verdict.

In October the trial of Jose Ernesto Cordova, charged with the July 1999 murder of William Ernesto Rosales Bonilla, an employee of the newspaper *El Diario de Hoy*, began. The trial had not concluded at year's end. Prosecutors assert that there were other participants in the crime, including police officers. However, no evidence of police participation had been found by year's end.

A public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Villalta. The next phase of the trial was scheduled for January 2001.

There were no further developments in the 1998 death of Carlos Ernesto Lovo who died of drowning after fleeing police custody.

In February four members of the National Action Party (PAN) were killed in two separate incidents. Masked gunmen shot and killed Gilberto Cano Gonzalez near PAN headquarters in Metapan while he was distributing campaign materials to a party sympathizer, Samuel Martinez Flores. Martinez was killed by his own gun, which he dropped in his attempt to flee after the first shots were fired. In October

a court found ARENA activist Jose David Murcia and Gilberto Torres not guilty of aggravated homicide. The prosecutor appealed, alleging procedural errors in the trial. The appeal was pending at year's end. In San Antonio de Monte a local resident (reportedly mentally disturbed) stoned two PAN members to death. The police detained the perpetrator, and there was no indication of any political connection.

On March 26, Jose Maria Tojeira, rector of the Jose Simeon Canas Central American University, formally asked the Attorney General to reopen the case of the 1989 murders of six Jesuit priests, their housekeeper, and her daughter and prosecute the crime's alleged instigators. He based his request in part on the December 1999 report by the Inter-American Commission on Human Rights (IACHR) which found the State responsible for violating the right to life of the eight murdered persons and for failing to conduct an effective investigation. The report also criticized the 1993 General Amnesty Law, which led to the release from custody of two military officers found guilty of the murders in 1992, and called on the Government to reopen the case. In reply to the IACHR report, the President reviewed the steps taken by the justice system to investigate and punish the crime; however, he recommended against reopening the case because that would undermine the integrity of the post civil war amnesty, which he regarded as essential to the continuing process of national reconciliation. The Attorney General deferred action on Tojeira's petition until the Supreme Court (CSJ) issued its decision on the constitutionality of the 1993 General Amnesty Law. On September 26, the CSJ upheld the constitutionality of the 1993 General Amnesty Law. However, the Court also indicated that certain special cases were not eligible for amnesty and gave lower courts discretion to adjudicate these matters on a case-by-case basis. In December the Attorney General brought the matter before a lower court judge and recommended that the case be closed. The judge ruled that the accused were not covered under the amnesty law because they were public officials at the time of the killings. However, she closed the case because the 10-year statute of limitations had expired. Tojeira appealed the decision, as did the defense, who wanted the court to find the accused not guilty based on the facts rather than the statute of limitations. Both appeals were pending at year's end.

b. Disappearance.—There were no confirmed politically motivated disappearances.

As of mid-November, the presidential commission investigating police misconduct identified at least 12 officers suspected of involvement in kidnappings in during the year and in prior years. Most disappearances were the result of kidnapping for profit, a common occurrence affecting all levels of society throughout the country.

In May an organized crime group that included police officers kidnaped businessman Rodrigo Zablah in San Salvador and held him for more than 2 weeks. Three police officers allegedly stopped his vehicle and told him to accompany them to the police station because of a traffic accident that had occurred a day earlier. Once he was in the police car, they took him to another location. The Attorney General's office identified 18 persons involved in the crime, including at least 3 police officers. A hearing was scheduled for June 2001. Eight of the accused remained at large at year's end.

In June another organized crime group that included police officers kidnaped a couple in Sonsonate and demanded ransom. The PNC's antikidnaping unit rescued the victims the next day and captured five persons. The Attorney General's office charged eight persons with the crime, including PNC sergeant Tomasa Reyes Alvarado and former PNC sergeant Jose Azcunaga Segura. The latter had been charged with kidnapping in the past and had been removed from the police force. A hearing was scheduled for May 2001. Two of the accused remained at large at year's end.

There were no new developments in the 1999 kidnappings of Margarita Posada, the director of a domestic nongovernmental organization (NGO), and Miguel Montenegro, president of the Human Rights Commission of El Salvador. Both victims were released within a day. The police did not find the perpetrators.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict, a local NGO, advocated the creation of a national commission to clarify what happened to 383 children who disappeared during the war, and whose whereabouts remain unknown. The Legislative Assembly had taken no action on their request at the end of the year.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices; however, some members of the PNC continued to use excessive force or otherwise mistreated detainees.

In February four PNC officers allegedly tortured Juan Carlos Miranda before stabbing him and stealing his vehicle. The officers had stopped him as he was driving a minibus. After putting him in the back of the bus, they kicked, beat, and threatened him for 2 hours. Finally, they stabbed him and left him for dead. In Oc-

tober a court found three officers guilty of attempted homicide and sentenced them to 16 years in prison. The court absolved a fourth officer of all charges.

During the year, the office of the Ombudsman for the Protection of Human Rights (PDDH) received 724 complaints of violation of the right of personal integrity by government authorities, a decrease from a total of 929 complaints in 1999. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and improper treatment of detainees. The majority of these complaints involved the PNC and alleged minor to serious violations of arrest procedures. The PDDH received a total of 1,198 complaints against the PNC for all categories of human rights violations during the year. The number of complaints against the PNC and the cases of violations of personal integrity by all authorities have declined for the past several years.

At year's end, 128 police officers were in prison on criminal charges or serving prison sentences for crimes that included murder, rape, extortion, and kidnapping.

In June President Flores named a commission to investigate alleged police misconduct. The commission proposed reforms to PNC regulations to expedite discipline and dismissals, including the establishment of special courts to review cases of alleged misconduct. In June the Legislative Assembly passed authorizing legislation to implement the measures recommended by the commission. This legislation strengthened the role of the PNC Inspector General's office, making it a quasi-independent body within the PNC, charged with investigating allegations of police misconduct and reporting directly to the chief. In August the Assembly approved a temporary measure that allowed the chief of police for 120 days to remove officers charged with crimes or inadequate performance following an internal PNC investigation by the office of the Inspector General. In December the Assembly extended the measure for an additional 45 days. By year's end, the police force had dismissed more than 1,500 persons under the special decree and preexisting disciplinary procedures, and the special police courts had acquitted more than 200 persons. Some assembly deputies and the press questioned the transparency of the process and the fairness of its application and charged that high ranking officers remained immune from scrutiny. The commission identified 14 persons suspected of having committed torture.

Labor organizations and the Human Rights Ombudsman alleged that in March the Government used unwarranted force to disperse a demonstration by striking social security workers. The police used water cannons on demonstrators who had blocked a busy street for several hours and refused to move when urged to do so by police and other authorities, including the Human Rights Ombudsman. The police shot rubber bullets in the air, injuring one journalist. When the case was brought to court in March, the judge determined that the use of force by police was appropriate for the circumstances. The Government did not employ force during other demonstrations during the year.

In the past there have been allegations from children's rights groups that street children suffer from police brutality; the PNC always have denied these charges (see Section 5).

There were no further developments in the 1998 shooting of FMLN communications adviser Leonardo Mena Marroquin.

Human rights awareness was a standard component of the police officers' basic training program.

Prison conditions remained poor. From December 1997 to December 1999, the prison population fell about 23 percent as a result of the implementation of new sentencing and penal codes, which limit preventive detention to serious crimes. However, it increased again during the year. The prison system has the capacity to hold 5,794 prisoners in 18 penal facilities. There was still some overcrowding in individual facilities. At year's end, 7,383 men were held in 17 prison facilities with a combined capacity of 5,674; there are 371 women in the single women's prison, which has a capacity of 120; and there are 61 men in 3 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often are sent to regular prisons, where they may be placed together with violent criminals.

Gang violence, especially in the country's three largest and oldest penitentiaries and its juvenile holding facilities, continued to plague the prison system, despite government efforts to separate different gangs. In January the media reported incidents of prisoners torturing other prisoners in La Esperanza in San Salvador in 1999 and earlier. Prison authorities reported that, during the year, there were 13 deaths in the prison system, 4 of which were from multiple wounds caused by violence between prisoners. The remaining deaths resulted from illness.

There are separate facilities for female detainees and prisoners.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government observes this requirement in practice. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest; however, at times the PNC arbitrarily arrested and detained persons. During the year, the PDDH received 181 complaints for violations of personal liberty, a decrease from 225 complaints in 1999. The number of complaints in this category has declined steadily since 1996. The courts generally enforced a ruling that interrogation without the presence of counsel is coerced and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived.

The law permits the police to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often are sent to regular prisons, where they may be placed together with violent criminals. The law allows 120 days to investigate serious crimes and 45 days for lesser offenses before a judge is required to bring the accused to trial or dismiss the case. However, many cases were not completed within the legally prescribed time frame. During the year, more than 2,000 inmates were in pretrial detention. From January through May, the justice of the peace courts, where most court cases originate, accepted a daily average of 166 cases. Of these, a daily average of nine cases were resolved through conciliation proceedings.

The Penitentiary Code permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. Because it may take several years for a case to come to trial, some prisoners have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observes this prohibition.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary, and the Government respects this provision in practice. However, the judiciary suffers from inefficiency and corruption.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council. The Council is an independent body provided for in the Constitution to nominate, train, and evaluate judges. All lower court judges serve until they voluntarily resign or are dismissed for cause. The Legislative Assembly elects, by a two-thirds majority, Supreme Court justices from a list provided by the National Judicial Council and the National Association of Lawyers. A justice serves for 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The Criminal Sentencing Court has responsibility for executing and monitoring the sentences imposed by the trial courts. Through its Department of Judicial Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the National Judicial Council, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial determination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

The Juvenile Legal Code requires that minors under the age of 18 be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors.

In 1999 the Legislative Assembly approved a number of additional changes to the Criminal Procedures and Penal and Penitentiary (Sentencing) Codes. These changes included the establishment of more severe penalties for some crimes (including increasing the maximum possible prison sentence from 30 to 35 years), the elimination of parole for some crimes, and the addition of new crimes to the code. One of these reforms strengthened the legal protection afforded to children and the disabled by prescribing 6-to-8-year prison sentences for persons convicted of sexual ag-

gression against adults incapacitated by mental or physical conditions or against minors.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity before the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well-connected. In August National Conciliation Party leader and Legislative Assembly Deputy Francisco Merino shot at police officers, injuring one officer. (Merino is also a former Vice President.) Merino settled out of court with the police department and the injured officer. The Assembly decided not to lift Merino's parliamentary immunity to allow criminal prosecution.

In October a judge exonerated the individuals accused of the April 1999 rape and murder of 9-year-old Katya Miranda. Investigators allegedly failed to collect important evidence at the crime scene, and the judge refused to interview several witnesses identified by prosecutors. In November a judge ruled that the ex-president and directors of the Salvadoran Soccer Federation could not be prosecuted for misuse of funds, document fraud, and other charges because the organization was not public. More than \$4 million (36 million colones) was missing from the Federation. The Attorney General's office appealed the judge's decision, and a hearing was scheduled for January 2001.

Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, resulting in diminished public confidence in the justice system.

Corruption in the judicial system and the Attorney General's office contributed to impunity. In November the Attorney General announced that he was investigating information that almost 450 prosecutors and judges might have falsified their credentials or obtained them illegitimately, and another 83 persons might have been involved in nepotism. He also was investigating suspicions that prominent defense attorneys had sources inside the prosecutors' office who provided leaks that impeded investigations and prevented successful prosecutions.

The Government and the Legislature took steps to address these problems. At the Attorney General's urging, the Legislative Assembly passed a law on November 23 that created an expedited process for dismissing employees of the Attorney General's office. The measure, authorized for 120 days, was modeled after a law passed in August that permitted the expedited removal of undesirable persons from the police force.

Some public officials called for the Supreme Court to begin a similar initiative to remove corrupt judges. The Court maintained that its Department of Judicial Investigation and the National Judicial Council already scrutinized judicial performance on an ongoing basis. In practice, the Court imposed few sanctions upon judges. During the year the Court received the Council's evaluations of the performance of 322 justices of the peace, 46 trial court judges, 63 sentencing court judges, and 28 appeals court magistrates. The evaluations reviewed each judge's performance over several months in 1998 or 1999. The Council recommended the dismissal of 3 justices of the peace and 1 trial court judge, and suspensions ranging from 3 to 60 days for 156 justices of the peace, 23 trial court judges, 18 sentencing court judges, and 13 appeals court magistrates. The Court exonerated two of the four officials recommended for dismissal; a third resigned, and the fourth case remained under review at the end of the year. By the end of the year, the Court had begun to review 11 cases of judges recommended for dismissal. It had taken no action in the remaining cases.

The implementation of judicial reforms continued to create confusion and uncertainty among police, prosecutors, public defenders, and the courts. Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for a right to privacy, and government authorities generally respected these rights in practice. The law requires the police to have a resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed, before entering a private dwelling.

In June the Attorney General's office initiated investigations of reported illegal wiretapping activities conducted by the telecommunications company, TELECOM. The Legislative Assembly formed a special commission to conduct parallel investigations. The Superintendent of Telecommunications and Electricity produced a list of telephone numbers believed to have been tapped, including those of the offices of the Attorney General, politicians, journalists, and NGO's. Neither the commission nor the Attorney General had completed their investigations, and the purpose of the wiretapping had not been determined at year's end.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of the press, and the Government respects this right in practice. Print and broadcast journalists from all major media outlets regularly and freely criticize the Government and report opposition views. Opposition figures are interviewed routinely on television and radio, and in the press. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations complained that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy.

The Inter-American Press Association identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources. In September some news organizations criticized the Government for attempting to require all television and radio stations to broadcast the President's speech and related events celebrating Independence Day. Several organizations refused to broadcast events other than the President's speech; however, the Government took no action against them.

There are 5 daily newspapers, with a combined circulation of more than 250,000 copies per day, and 12 television stations. Four independent VHF television stations reach most areas of the country, while the government-owned and operated VHF station has poor signal quality even in San Salvador. Seven independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital, and other cable companies operate in the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major local stations and a wide range of international programming. There are approximately 20 small cable television companies across the country, serving limited local areas. While most of them appear to be authorized broadcasters, several are believed to be pirating signals. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the 1999 Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the Inter-American Press Association (IAPA) have asserted that the provision abridges press freedom. In the past, legislative deputies have argued that misuse of the provision could lead to impunity and corruption by limiting the "watchdog" role of the press.

There were no instances of censorship of books, other publications, films, or plays. The Constitution provides for academic freedom, and the Government respects this right in practice.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for peaceful assembly for any lawful purpose, and the Government respects this right in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common and generally peaceful. A court determined that the Government's use of force to disperse a demonstration by striking social security workers in March was appropriate (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

The Supreme Court still had not decided a constitutional challenge to a 1996 law charging the Ministry of Interior with registering, regulating, and overseeing the finances of NGO's and non-Catholic religious groups, which a group of affected organizations filed in 1998.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government respects this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government respects them in practice.

The law does not include specific provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Sta-

tus of Refugees and its 1967 Protocol; however, the Government has procedures for handling such requests in accordance with these principles.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen in recent years. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

Ten political parties, representing the full political spectrum, fielded 7 candidates in the March 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

Four PAN members were killed in two separate incidents in February prior to the March elections (see Section 1.a.).

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, women are not accorded equal respect or stature in these areas and are under-represented in government and politics. Women head three ministries (Foreign Affairs, Education, and Environment) and the Social Security Institute, and hold a substantial number of vice- and sub-ministerial jobs. Women represented 49 percent of the registered voters in the March election. In March voters elected 8 women to the 84-seat legislature, a decrease from the previous Assembly's 14 women. One woman sits on the Assembly's 11-member governing board; there were 2 women on the board in the previous legislature.

Minorities, including indigenous people, are not barred from voting or participating in government and politics; however, they are underrepresented.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGO's. However, it was sometimes reluctant to discuss worker rights issues with NGO's. Numerous domestic and various international NGO's operated freely. Domestic and international NGO's are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties.

The principal human rights investigative and monitoring body is the Ombudsman for the Defense of Human Rights (PDDH), elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the constitution that defined its role.

Ombudsman Eduardo Penate Polanco resigned in February. The Attorney General had charged him with diverting funds from international donors while he worked in a previous job, and the Legislative Assembly was preparing to remove him from office for negligence. Following his resignation, the office continued its work under an acting Ombudsman while the Legislative Assembly considered other candidates. The office's investigative capacity remained limited due to resource constraints. The institution remained handicapped because the interim official lacked confirmation by the Assembly and therefore did not have the same authority as a permanent ombudsman.

During the year, the PDDH accepted 2,572 complaints of human rights violations. The rights most frequently alleged to have been violated included personal integrity and due process of law; 566 complaints.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women, the disabled, and indigenous people occurs in salaries and hiring. There were some instances of violence against homosexuals.

There were no new developments in the 1999 shooting of a man leaving the office of the domestic homosexual rights organization *Entre Amigos*, or in the telephonic death threats against the director of that organization. There were no new developments in the 1999 murders of transvestite prostitutes "Doris" and Nestor Adonai Marengo (known as "Gloria") nor in the murders of transvestite prostitutes in 1998.

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with hitting, insulting, and threatening six homosexuals.

Women.—Violence against women, including domestic violence, is a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly is being recognized publicly and has become a topic for national debate. Government institutions, such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC, coordinated efforts with NGO's and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family maintains a hot line for victims to report domestic abuse. The Salvadoran Institute for the Development of Women (ISDEMU) received 4,017 cases of domestic violence through August, a number slightly down from the same period in 1999. Incidents of domestic violence and rape continued to be underreported for several reasons: societal and cultural pressures against the victim; a fear of reprisal; poor response to victims by the authorities; fear of publicity; and the belief that cases are unlikely to be resolved. The penalties for sexually aggressive rape are 6 to 10 years in prison. The law does not specifically address spousal rape; however, it could be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 277 cases of sexual aggression through August, a slight increase above the same period in 1999.

Prostitution is common. There were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Women are trafficked to Mexico to work as prostitutes (see Sections 6.c. and 6.f.).

The law prohibits sexual harassment. In May the authorities dismissed a deputy police commissioner for having sexually harassed a female subordinate.

The Constitution grants women and men the same legal rights; however, women suffer discrimination.

Women suffer from cultural and societal discrimination and have significantly reduced economic opportunities. Priority generally is given to male children for schooling, to men for available jobs and promotions, and to sons for inheritances. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. On June 15, the Legislature ratified International Labor Organization (ILO) Convention Number 100, on equal remuneration. However, while there is no definitive evidence available, it is widely believed that women often are paid less than men for equal work. The one sector in which there is an exception to this practice is in the export processing zones and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (see Section 6.b.). However, even in this sector, men hold the majority of management positions. Training for women generally was confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses. The law prohibits pregnant women from working in strenuous occupations after the fourth month of pregnancy (see Section 6.e.).

Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

Children.—The Government concentrated more on reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. The National Secretariat of the Family solicited public input on a new national policy of comprehensive attention for children and adolescents.

Education is compulsory through the 9th grade (up to age 14). Public education is free through high school, and only a nominal fee is charged to attend the national public university. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents withdraw their children from school by the sixth grade to work. UNICEF data from 1998 show that 14 percent of urban children (ages 7–17) and 29 percent of rural children were not attending classes.

The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights. However, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The Salvadoran Institute for the Protection of Children (ISPM), an auton-

mous entity, has responsibility for protecting and promoting children's rights. The ISPM estimated that an average of 2,600 children, some abandoned and others victims of mistreatment, stayed in its shelters. For the year, it reported 1,126 cases of physical mistreatment, 267 cases of negligence, and 374 cases of abandonment. All of these statistics were below those for the same period in 1999 when the ISPM reported approximately 1,500 cases of mistreatment, 650 cases of negligence, and 700 cases of abandonment. Using different criteria, the ISDEMU recorded 3,071 cases of abuse during the year, significantly below the 1999 level of 10,070 cases. The difference reflects a change in reporting criteria.

Substance abuse (glue and paint sniffing) was a problem among urban street children. FUNDASALVA, an NGO, provides drug counseling and treatment to minors. In the past, there have been allegations from children's rights advocates that street children suffer from police brutality. The PNC denied these charges and incorporated PDDH human rights training into programs for police units that deal with juveniles.

The ISPM reported 87 cases of sexual abuse, a slight increase from the 1999 figure of 72. A majority of the victims were female. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

The PDDH estimated that 270,000 minors work, most as street vendors (see Section 6.d.). In addition to lost educational opportunities, some of these children fell victim to sexual abuse and were exploited and forced into prostitution (see Sections 6.c. and 6.f.). Between 10 and 25 percent of "visible" prostitutes are minors, and an estimated 40 percent of the "hidden" prostitutes who cater to upper-class clients are believed to be minors, according to a UNICEF study released during the year.

Children, especially those living on the streets, are trafficked to other countries and then forced into prostitution (see Section 6.f.).

Child labor is a problem (see Section 6.d.).

Children from Honduras have been used as beggars to support traffickers in San Salvador (see Section 6.f.).

Infant malnutrition continued to be a problem. A National Family Health Poll, conducted in 1998 and released in December 1999, found that 1.1 percent of children under 5 years of age suffered from grave malnutrition, with an additional 21 percent experiencing less severe malnutrition. The Ministry of Health listed malnutrition as one of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

People with Disabilities.—Government efforts to combat discrimination and increase opportunities for the disabled are growing but inadequate, with the exception of the war wounded, who have secured both government and international funding for rehabilitation and retraining programs. In May the Legislative Assembly passed a law mandating that new or renovated public buildings be accessible to the disabled. The law also required businesses to employ 1 person with a disability for every 25 employees, an increase from the preexisting requirement of 1 to 50. Although the Government had not enforced the previous law's employment quota, it brought together dozens of government agencies and nongovernmental organizations to discuss ways to implement the new law effectively. However, the Ministry of Labor has only two persons to handle all issues related to the disabled, and its records are kept on paper files in its regional branches. Therefore, there are no reliable data on the number of disabled persons, nor on how many are employed.

Access by the disabled to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for the physically disabled. Only a few of the Government's community-based health promoters have been trained to treat the disabled, and they rarely provided such service. The Ministry of Health estimated that 10 percent of the population is afflicted by some form of disability. Many disabilities are directly attributable to the civil war. Other contributing factors included lack of prenatal care, misuse of pesticides in food production, malnutrition, auto accidents, and criminal violence.

There were several organizations dedicated to protecting and promoting the rights of the disabled, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation ProRehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled, has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses to the disabled.

The Government and national and international private and nongovernmental organizations provide its funding.

Indigenous People.—The country is ethnically homogeneous, although a very small segment of the population still claims indigenous status.

The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights.

Early in the century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem.

Indigenous people reportedly earned less than other agricultural laborers. Indigenous women in particular had little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land was a growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans.

Religious Minorities.—There were no new developments in the investigation of the 1999 burglaries at offices of the Lutheran Church.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the rights of workers and employers to form unions or associations, and the Government generally respected these rights; however, there were some problems. There were repeated complaints by workers, in some cases supported by the International Labor Organization's (ILO) Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association.

Union leaders asserted that the Government and judges continued to use excessive formalities to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. In March the Government denied an application from five food industry unions to form a federation, because they allegedly had made procedural errors in their application. In a complaint submitted to the ILO, the unions asserted that the Government had not given them an opportunity, as required by law, to correct the errors in their application. The CFA, in its November report, supported the workers' view, observing that it "deeply regretted" that the Government had not worked to overcome procedural problems that "could easily have been rectified." It criticized the Government, observing that "formalities should not be of such a nature as to impair the free establishment of organizations." In September the unions submitted a complaint to the Supreme Court that remained pending at year's end.

In 1999 the CFA similarly cited the Government for its failure to provide protection or remedy for a number of labor leaders fired in 1998 during the process of privatizing the state-owned telephone company. The finding concluded that the Labor Code imposed excessive formalities for the recognition of a trade union, and found that the application of the law repeatedly was used to refuse legal status to a trade union in the telephone company. The Committee called on the Government to complete the process for recognition of the telecommunications union, amend the Labor Code to remove the excessive formalities that the Committee concluded infringe on the right to form a union, seek to have the two union leaders who had not yet accepted severance pay reinstated, and ensure that future changes of company ownership did not threaten labor leaders or labor organizations.

The Government asserted that the telephone company complied with the labor code by offering a severance payment to the fired workers.

In September the Supreme Court determined that the Government had erred in denying legal standing to the telecommunications union and ordered the Government to grant it legal status. On October 23, the Government complied with the order and granted legal status to the union. However, TELECOM, the privatized successor to the state-owned telecommunications company, dismissed three union leaders in the next 5 weeks. As part of a company restructuring process, it also asked dozens of employees, many of whom were union members, to submit resigna-

tions. Thirteen employees refused, and the company prohibited their entry to the workplace. Telecom petitioned the Ministry of Labor to decertify the union, asserting that the union had failed to follow correct procedures for obtaining legal recognition. In December the Ministry of Labor sought to mediate a mutually agreeable settlement between the parties, but was unsuccessful. The union filed a lawsuit against the company for violating the rights of the union members. At year's end, the suit had not gone to trial, and the Ministry of Labor had not ruled on the company's petition.

There is a small organized labor sector with approximately 150 active unions, public employee associations, and peasant organizations, representing over 300,000 citizens, approximately 20 percent of the total work force. Unions generally are independent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if they do not provide essential services. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. Some of the most powerful labor groups are public employee associations. They have the same responsibilities as unions, including calling technically illegal strikes and collective bargaining. The Government negotiated with public employee associations and generally treated their strikes as legitimate, although the Labor Code provides for mandatory arbitration of public sector disputes. The November CFA stated that "denial of the right of association of public service employees to establish unions is an extremely serious violation." The Committee formally recommended that the Government amend national legislation to recognize the right of association of workers employed in the service of the State, with the possible exception of the armed forces and the police. There was one public sector strike during the year (see Section 1.c.).

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application. The Constitution provides that union officials may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause from the time of their election until one year after the completion of their term of office. However, the Labor Code does not require the employers to reinstate them, but requires the employers to provide a severance payment. In practice, some employers dismissed workers who sought to form unions. The Government generally ensured that employers paid severance to these workers. However, the Government did not prevent their dismissal or require their reinstatement.

The Committee on Freedom of Association cited one case in which a private firm blocked the formation of a union by coercing the union founders to resign 1 hour before the union was to be recognized officially (see Section 6.b.).

Unions can only strike after the expiration of a collective bargaining agreement. Unions must first seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, the strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot. The union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, who notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

In June the Supreme Judicial Court determined that the Government's dismissal of striking Social Security Institute workers in 1999 was illegal. In accordance with that ruling, in August the Social Security Institute reinstated 187 of the 219 workers. The remaining workers requested a severance payment in lieu of reinstatement.

The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Ministry of Labor only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather

than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Labor leaders assert that the Government had an unfair advantage in arbitration of public sector labor disputes, because the Government holds two of three seats on arbitration panels. (The employer, the workers, and the Labor Ministry each name one representative to a panel.) The arbitration panel for the Social Security labor dispute in March included a representative of the Labor Ministry, although the Labor Minister sits on the governing council of the Social Security Institute. Corruption continued to affect labor inspectors and courts.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the maintenance of lists of workers who would not be hired because they had belonged to unions.

In reviewing the February firing of 44 union members by the La Salud Dairy, the Ministry of Labor found that the cooperative had the legal right to dismiss the workers. It cited a provision of the Labor Code that allows enterprises to suspend labor contracts when economic conditions require them to reduce their activities; however, the dismissals occurred 1 day before a deadline for completing the renegotiation of a collective bargaining agreement, and in letters to the fired workers, the company cited the union's negotiating position as the reason for the dismissals. Labor representatives stated that, after dismissing the first set of workers, management successfully pressured the 43 remaining members to resign from the union.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 8 export processing zones (EPZ's). The Labor Code applies in the EPZ's; there are no special EPZ labor regulations.

Most EPZ companies and a large portion of the maquila plants had voluntary codes of conduct promoted by their parent corporations or foreign purchasers. In addition, two EPZ's have their own codes of conducts for all tenants. These codes include worker rights protection clauses. Some companies in the EPZ's provided salaries and on-site benefits (e.g. clinics, cafeterias) competitive with the best private sector enterprises (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 19 unions that exist in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its annual report that some EPZ workers also suffered low pay, health and safety risks, 12- to 14-hour workdays, and minimal toilet breaks.

In January the clothing assembly factory DOALL reemployed workers that unions alleged it had dismissed illegally when they tried to form a union in 1999. The reinstatements followed pressure from DOALL's major foreign customer and involvement by the Ministry of Labor. In September the Ministry of Labor approved an application for legal standing for a union formed by the rehired workers. The Ministry had denied the union's original application in 1999 based on documentation provided by DOALL showing that the workers had resigned 1 hour before they held the union's constituent assembly. Union officials asserted that company management had falsified the letters of resignation. The Committee on Freedom of Association noted that the Government had not responded to the Committee's queries on this incident which it said included "antiunion acts of discrimination and interference on the part of the company."

In October the Ministry of Labor opened branch offices in EPZ's to make its services more accessible to its users. The Ministry provided the staff, and the EPZ's covered other costs.

In the past, there have been credible accusations that some factories abused their workers, and that some women were not hired because they were pregnant. Workers have reported mistreatment, threats, abuse, and sexual harassment. Although the Ministry of Labor has improved its efforts to increase inspection and follow up on such complaints, it still has insufficient resources to cover all the EPZ's, much less the much larger national private sector.

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there have been no instances in which this has been used or even threatened publicly. The ICFTU has reported persistent problems facing female employees in EPZ's, including mandatory pregnancy tests and firing of workers who are pregnant (see Section 5).

On October 23, the Government complied with a Supreme Court order to provide legal standing to the telecommunications union (see Section 6.a.).

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, except in the case of calamity and other instances specified by

law, and the Government generally enforces this provision; however, there were reports that women were forced into prostitution (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children are covered by the general prohibition. There were no reports of their use in the formal sector; however, there was strong evidence that minors have been forced into prostitution (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution prohibits the employment of children under the age of 14; however, child labor is a problem. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous. The law limits the workday to 6 hours for youths between 14 and 18 years of age and sets a maximum normal workweek for youths at 36 hours. The PDDH estimated that 270,000 minors work, most as street vendors.

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector (see Section 5.). Children in these circumstances often do not complete schooling through the 9th grade, as the law requires. There were no reports of child labor in the industrial sector. It does not exist in the EPZ's.

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so; however, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside the urban formal sector. On June 15, the Legislative Assembly ratified ILO Convention 182 on the elimination of the worst forms of child labor. In September the ILO's International Program for the Elimination of Child Labor (IPEC) opened an office to help develop and support this effort. The Government continued to collaborate with IPEC on projects initiated in 1999. In March IPEC began a project with local NGO's, police, municipal officials, and fireworks producers to take 1,000 children out of the fireworks industry and prevent another 1,000 children from entering. The project includes community awareness programs, increased educational and health care opportunities for children, creation of alternative economic opportunities for families, and increased labor enforcement capacities. Similar programs target children in the coffee and shellfish extraction industries.

The Labor Code does not specifically prohibit forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Section 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The minimum wage is set by executive decree based on recommendations from a tripartite (government, labor, and business) committee. The minimum daily wage is \$4.80 (42.00 colones) for commercial, industrial, and service employees; \$3.57 (31.20 colones) plus food allowance for coffee plantation workers; \$2.61 (22.80 colones) plus food allowance for sugar and cotton plantation workers; and \$2.47 (21.60 colones) plus food allowance for all other agroindustrial workers. The minimum wage with benefits does not provide a decent standard of living for a worker and family.

The Ministry of Labor is responsible for enforcing minimum wage laws and generally does so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law a full-time minimum wage employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and billiard halls; the prohibition also applied to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the fourth month of pregnancy. Health and safety regulations are outdated, and enforcement is inadequate. The Ministry of Labor attempts to enforce the applicable regulations but has restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms, and eating facilities, and inadequate ventila-

tion (problems with dust and heat). Some of the largest plants have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

f. Trafficking in Persons.—The law does not specifically prohibit trafficking in persons; however, it stipulates that any crime involving “commerce in women or children” automatically carries a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime. The Government enforces this provision.

The country is a source of women and children for trafficking in prostitution to Mexico and other countries. There are credible reports that women and children are lured to Mexico by procurers only to be sold to owners of establishments there who then force the trafficked persons to work off the debt as sex workers. According to Guatemalan authorities, street children from El Salvador are lured to border areas with Guatemala where they are then forced into prostitution by organized rings.

According to press reports, Honduran children were brought to San Salvador to beg for their sponsors. The Government investigated and took a number of children into custody. When their parents could not be found, they were turned over to the ISPM.

GRENADA

Grenada is a parliamentary democracy, with a Governor General as titular Head of State. In the January 1999 parliamentary elections, Prime Minister Keith Mitchell's New National Party (NNP) won all 15 seats and formed a new government. Subsequently, one Member of Parliament left the NNP and became the sole opposition member. The elections were conducted openly and fairly and were free of violence. The judiciary is independent.

The 755-member Royal Grenada Police Force is responsible for maintaining law and order. It is controlled by and responsive to civilian authorities. There were occasional allegations of abuse by the police.

Grenada has a free market economy based on agriculture and tourism. The projected annual real economic growth rate was 5.3 percent, compared with about 8 percent in 1999. Per capita gross domestic product was approximately \$3,205.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Violence against women is common. Child abuse is a problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political or other extrajudicial killings.

b. Disappearance.—There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits such practices, and there were no reported incidents of torture. Flogging, a legal form of punishment, is rare but has been used as punishment for sex crimes and theft cases.

There were no media reports of police brutality during the year. Allegations of police brutality are investigated internally by the police. The Police Commissioner can discipline officers in valid cases of brutality with penalties that may include dismissal from the force. The Police Commissioner has spoken out strongly against police use of unlawful force.

Prison conditions meet minimum international standards, and the Government permits visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law provides the police with the right to detain persons on suspicion without a warrant, but they must bring formal charges within 48 hours. The police adhere to this time limit in practice. If the police do not charge a detainee within 48 hours, they must release the person.

The law provides for a judicial determination of the legality of detention within 15 days after arrest on a criminal charge. The police must formally arraign or release a detained person within 60 days, and the authorities generally followed these procedures. There is a functioning system of bail, although persons charged with capital offenses are not eligible. Persons charged with treason may be accorded bail only upon the recommendation of the Governor General.

In January the Government announced establishment of a Truth and Reconciliation Commission with a broad mandate to examine events in the country from 1976 through 1991. The Commission's terms of reference specify the objective of recommending “general amnesty to certain persons who in the opinion of the Commis-

sion have given truthful information during the hearing of evidence.” The Commission is expected to review the convictions of former Deputy Prime Minister Bernard Coard and other leaders of the former People’s Revolutionary Government for their roles in the 1983 assassination of former Prime Minister Maurice Bishop and his cabinet colleagues. In 1986 a court convicted Coard and 18 other revolutionary leaders of murder and sentenced them to death; subsequently, 2 were pardoned, and the sentences of the remaining 17 commuted to life in prison. Of these, one person was granted parole to undergo medical treatment overseas. At year’s end, the Commission was preparing to begin its work.

The Government does not use forced exile.

e. Denial of Fair Public Trial.—The judiciary, a part of the Eastern Caribbean legal system, is independent. Final appeal may be made to the Privy Council in the United Kingdom. Those arrested on criminal charges are brought before a judge to determine whether there is sufficient evidence to substantiate the charges; if there is, the judge remands the defendant for trial.

The law provides for the right to a fair public trial, and the authorities observe it in practice. There is a presumption of innocence, and the law protects persons against self-incrimination and requires the police to explain a person’s rights upon arrest. The accused has the right to remain silent and to seek the advice of legal counsel. A defense lawyer has the right to be present during interrogation and may advise the accused how to respond or not to respond to questions. The accused has the right to confront his accuser.

The court appoints attorneys for indigents only in cases of murder or other capital crimes. In other criminal cases that reach the appellate stage, the court appoints a lawyer to represent the accused if the defendant was not previously represented or reappoint earlier counsel if the appellant no longer can afford that lawyer’s services. Due to the backlog of cases caused by a shortage of judges and facilities, up to 6 months can pass before those charged with serious offenses face trial in the High Court. With the exception of persons charged with murder and foreign-born drug suspects, the courts grant most defendants bail while awaiting trial.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits such practices, and the authorities generally respect these prohibitions. The law generally requires judicially issued warrants for searching homes, except in cases of hot pursuit. The Firearms Act of 1968 and the Drug Abuse Prevention Act Number 7 of 1992 contain other exceptions that give the police and security units legal authority to search persons and property without warrants in certain circumstances. In practice police obtain warrants in the majority of cases before conducting any search.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. There are three weekly newspapers, and several other newspapers publish irregularly. One of the weeklies is affiliated with an opposition political party, but the three most widely circulated newspapers are independent and often critical of the Government. The newspapers routinely carry press releases by the opposition parties, including regular weekly columns expressing the opposition parties’ views.

There are six radio stations. The main station is part of the Grenadian Broadcasting Network (GBN), a privately owned organization in which the Government holds a minority share. The principal television station is also part of the GBN. A privately owned television station began broadcasting in 1992. A cable television company operates in most areas of the country. All newspapers, radio, and television stations enjoy independence from the State and regularly report opposition views. The television news often carried reports on opposition activities, including coverage of political rallies held by various political parties and candidates, public forums featuring political leaders of each of the major parties, and other public service broadcasts.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right to assemble for any peaceful purpose, and the Government respects this right in practice. Supporters of political parties meet frequently and hold public rallies; the authorities require permits for the use of a public address system but not for public meetings inVDvests.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and all citizens have the right to enter and leave the country, except in special circumstances as outlined in and limited by the 1986 Act to Restrict the Freedom of Movement of Certain Persons. This law allows the Minister for National Security to restrict travel out of the country by any person whose aims, tendencies, or objectives include the overthrow of the democratic and parliamentary system of government; it has not been invoked in the past few years. Anyone so restricted may appeal after 3 months to an independent and impartial tribunal. The Chief Justice appoints an accredited lawyer to preside over such a tribunal.

No formal government policy toward refugee or asylum requests exists. The issue of provision of first asylum did not arise. There were no reports of forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. General elections must be held every 5 years; in January 1999, Prime Minister Keith C. Mitchell's NNP was returned to office, securing all 15 seats in Parliament. Since then one Member of Parliament changed party affiliation to become the single elected opposition member, leaving the NNP with a majority of 14 seats.

There are no restrictions in law or practice on participation by women in government and politics. Four of the 15 elected Members of Parliament are women; there are no women among the 13 appointed Senators. Women account for 7 of the 13 permanent secretaries, the highest civil service position in each ministry; in addition, a woman is the Cabinet Secretary, the highest civil service position in the Government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Local human rights groups operate without government restriction, and the Government cooperates with visits from international human rights organizations. In September Amnesty International established its regional office for the Eastern Caribbean in Grenada.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, place of origin, political opinions, color, creed, or sex, and the Government generally adheres to these provisions.

Women.—Women's rights monitors believe that violence against women remains a serious problem; however, they reported a decrease in such incidents during 1998, and more recent figures were not available. The police state that most cases of abuse are not reported, and others are settled out of court. The law stipulates a sentence of 15 years' imprisonment for a conviction of any nonconsensual form of sex. Sentences for assault against a spouse vary according to the severity of the incident. The Ministry of Women's Affairs was preparing a public relations campaign to increase awareness of the problem of domestic violence. In September 1999, a shelter for battered and abused women and their children opened in the northern part of the island, with medical and psychological counseling personnel on its staff. The home accommodates 20 persons.

Sexual harassment in the workplace is a problem.

There is no evidence of official discrimination in health care, employment, or education. Women frequently earn less than men performing the same work; such wage differences are less marked for the more highly paid jobs.

Prostitution is illegal.

Children.—The Social Welfare Division within the Ministry of Labor provides probationary and rehabilitative services to youths, day care services and social work programs to families, assistance to families wishing to adopt or foster children, and financial assistance to the six children's homes run by private organizations.

Education is compulsory until the age of 16.

Government social service agencies reported a further increase in the number of child abuse cases, including sexual abuse. Abused children are placed either in a government-run home or in private foster homes. The law provides for harsh penalties against those convicted of child abuse and disallows the victim's alleged "consent" as a defense in cases of incest. Women's organizations and other nongovern-

mental organizations increased their public awareness efforts to recognize and combat sexual abuse of women and children.

People with Disabilities.—The law does not protect job seekers with disabilities from discrimination in employment, nor does it mandate provision of accessibility for public buildings or services. The National Council for the Disabled and the National Children's Home assist the Government in placing disabled students into community schools. The Council also seeks assistance from architects and builders in the construction of ramps at hotels and public buildings, and ramps have been installed at some hotels and government buildings.

Section 6. Worker Rights

a. The Right of Association.—All workers are free to organize independent labor unions. Labor Ministry officials estimate that 35 percent of the work force is unionized. Union leaders play a significant role in the political process, and one labor leader serves in the Senate on behalf of the Grenada Trades Union Council (GTUC).

Workers in the private and public sectors are free to strike, once legal and procedural requirements are met. There were several incidents of industrial action, including brief strikes by teachers, port authority workers, and private sector workers. Workers at the water company and the telephone company briefly employed "work-to-rule" tactics. However, all such actions were short-lived and settled with the intervention of the Labor Commission, the Minister of Labor, or the Industrial Court. All unions are technically free of government control, and none receive government financial support. However, all of the major unions belong to one umbrella labor federation, the GTUC, which is subsidized by the Government. The GTUC holds annual conventions and determines some policies for member unions.

The GTUC and its unions freely affiliate with regional and international trade union groups.

b. The Right to Organize and Bargain Collectively.—Workers are free to organize and to participate in collective bargaining. Legislation requires employers to recognize a union that represents the majority of workers in a particular business. The law prohibits discrimination by employers against union members and organizers. If a complaint of discrimination arises, mechanisms exist to resolve it. After all avenues for resolving a complaint have been exhausted between union representatives and employers, both sides may agree to ask for the assistance of the Labor Commissioner. If the Labor Commissioner is unable to find a resolution to the impasse, the Minister of Labor intervenes and, if unable to reach an agreement, may appoint an arbitration tribunal if both parties agree to abide by its ruling. The law requires employers who are found guilty of antiunion discrimination to rehire dismissed employees, but in most cases the employee accepts the option of compensation. There were no cases of antiunion discrimination reported to the Ministry during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution specifically prohibits forced or bonded labor, including that of children, and it is not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment.—Child labor is illegal; however, children sometimes work in the agricultural sector. The statutory minimum age for employment of children is 16 years. Inspectors from the Ministry of Labor enforce this provision in the formal sector by periodic checks. Enforcement efforts in the informal sector are lax. The Constitution prohibits forced or bonded labor by children, and there were no reports that it occurred (see Section 6.c.).

e. Acceptable Conditions of Work.—There are no minimum wage laws in force. Most workers, including nonunionized workers, receive packages of benefits from employers set by collective bargaining agreements between employers and labor unions. In many cases, overall wages and benefits are not sufficient to provide a decent standard of living for a worker and family. Many agricultural workers earn only about \$5.37 to \$5.55 (EC\$14.50 to EC\$15.00) per day.

The Constitution stipulates that the maximum number of hours per week workers may work is 40. The law does not prescribe a standard workweek, except for the public sector, which is expected to work a 40-hour week Monday through Friday. The normal workweek in the commercial sector includes Saturday morning work but does not exceed 40 hours.

The Government sets health and safety standards, but the authorities enforce them unevenly. Workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons.—There are no laws that specifically address trafficking in persons. There were no reports that persons were trafficked to, from, within, or through the country.

GUATEMALA

Guatemala is a democratic republic with separation of powers and a centralized national administration. The 1985 Constitution provides for election by universal suffrage of a one-term president and a unicameral congress. On January 14, Guatemalan Republican Front (FRG) candidate Alfonso Portillo replaced President Alvaro Arzu of the National Advancement Party (PAN), following a free and fair December 1999 runoff election. The FRG also holds a majority (63 seats) in the 113-member Congress. Despite significant pledges, the Portillo administration took only limited steps to implement the Peace Accords that the Government concluded with the Guatemalan National Revolutionary Unity (URNG) guerrillas in 1996. The judiciary is independent; however, it suffers from inefficiency, intimidation, and corruption.

The Minister of Interior oversees the National Civilian Police (PNC), created in January 1997 under the terms of the Peace Accords. The PNC has sole responsibility for internal security; however, during the year some members of the predecessor National Police (PN) remained on duty, and awaited mandated training to become PNC officers. There are no active members of the military in the police command structure, but for the past 3 years, the Government has ordered the army to support the police temporarily in response to an ongoing nationwide wave of violent crime. On March 21, Congress enacted a law that enabled the Government to continue this practice. Under the new law, military personnel were not subordinated clearly to police control during joint patrols or operations; however, in practice army units generally were subordinated to police control in situations such as PNC road checkpoints, security deployments around prisons, and deployments in response to reported lynchings. The Constitution requires the Minister of Defense to be either a colonel or a general in the military. On January 14, a bill was submitted that would enable the President to appoint a civilian as Minister of Defense; in June Congress asked the Constitutional Court to determine the constitutionality of the bill. On October 3, the Court ruled that it would be unconstitutional for the President, as Commander in Chief, to name a civilian as the Minister of Defense, with the rank of assimilated general. The President has been slow to carry out his commitment to dissolve the Presidential Military Staff (EMP) and to have its functions taken over by a civilian agency. On October 13, Interior Minister Byron Barrientos announced the creation of a citizen security brigade in Santiago Sacatepequez as a pilot project that may be extended to other parts of the country. Some members of the security forces committed human rights abuses.

The mostly agricultural-based, private sector-dominated economy grew by approximately 3 percent during the year. Coffee, sugar, and bananas are the leading exports, but tourism, textiles, and apparel assembly are key nontraditional export industries. According to a study by the Ministry of Agriculture, 4 percent of producers control 80 percent of the land. About 40 percent of the work force are engaged in some form of agriculture, and subsistence agriculture is common in rural areas. According to the U.N. Development Program (UNDP), between 50 and 60 percent of the population depends on subsistence farming. Officially, inflation was about 5.5 percent during the year, although most observers acknowledge that the official price index does not measure accurately actual price movements. There is a marked disparity in income distribution, and poverty is pervasive, particularly in the large indigenous community. Approximately 83 percent of citizens live in poverty; this figure rises to 90 percent among the indigenous population. According to the UNDP, 59 percent of the population live in extreme poverty. Combined unemployment and underemployment was estimated at 46 percent. Per capita gross domestic product was approximately \$1,600 during the year. Remittances from citizens living abroad continue to grow as a major source of foreign currency.

The Government generally respects the human rights of its citizens in many areas; despite improvements in some areas, serious problems remain in others. Some police officers committed extrajudicial killings. The investigation of the 1998 murder of Catholic bishop and human rights activist Juan Gerardi Conedera neared conclusion, and five defendants, including an army captain, a retired army colonel, and a former EMP specialist, were scheduled to stand trial. In May a nongovernmental organization (NGO) acting as legal representative for 10 communities whose inhabitants were massacred by government forces in the early 1980's filed a criminal suit against the high command of the regime of former President Fernando

Romeo Lucas Garcia, alleging genocide and other crimes. There was one credible report of forced disappearance attributed to the police. There were credible reports that some police tortured, abused, and mistreated suspects and detainees. Despite greater numbers of police officers on duty throughout the country, and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. Arrests and administrative sanctions against police officers remained high. In May the Secretariat for Strategic Analysis (SAE), the President's Peace-Accords-mandated civilian think tank, announced that it had discovered a database containing the names and other personal information of over 650,000 persons given to the SAE by Military Intelligence; the database appeared to have been compiled several years earlier. In June an NGO released a two-volume publication about the army and its conduct, personnel, and organization during the internal conflict. Prison conditions remained harsh. Arbitrary arrest and detention and lengthy pretrial detention continued to be problems. Judges and other law enforcement officials are subject to intimidation and corruption, and the inefficient judicial system frequently is unable to ensure fair trials and due process. Efforts to reform the judiciary continued; however, the climate of impunity is a serious problem. The Government achieved convictions in a few important cases involving past human rights violations; however, more often cases remained pending for lengthy periods in the courts as defense attorneys took advantage of the inefficient judicial system and filed numerous, baseless motions and appeals to delay trial. Threats to and intimidation of witnesses, victims, prosecutors, and judges continued to be a serious problem. Although the Government increased the security it provided for judicial personnel and witnesses in key cases, many observers believe that the level of protection still is insufficient. From April to June, the number of threats against judicial personnel, journalists, and human rights workers increased significantly, further contributing to the public's already heightened sense of insecurity. Allegations persisted that the EMP infringed on citizens' privacy rights by monitoring private communications.

The U.N. Verification Mission in Guatemala (MINUGUA) continued to monitor peace implementation and human rights issues. On March 3 and August 9, the Government signed a series of agreements in which it accepted responsibility for a number of human rights cases pending before the Inter-American Commission on Human Rights (IACHR). By December 5, the Government was negotiation with the IACHR on 79 of 140 pending cases. The Government began to pay reparations in a number of key cases. Violence and discrimination against women persisted, as did societal abuse of children and discrimination against the disabled and the indigenous population. Workers' efforts to form unions and participate in union activities are hindered by an ineffective legal system. Child labor and trafficking in women and children also are problems. Lynchings and mob violence continued, but at a significantly reduced rate, due in part to increased action by the PNC to combat lynchings. The Government conducted anti-lynching campaigns, achieved a very few convictions in past lynching cases, and made numerous arrests; however, fewer than a third of the hundreds of past lynching cases have gone to trial, and at year's end only one person was serving a prison sentence for taking part in a lynching. There was limited progress in the criminal case against a group of armed civilians who held the leaders of the principal banana workers' union at gunpoint in October 1999 and forced them to resign from both their jobs and union positions.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no allegations of politically motivated killings by government agents; however, members of the police committed some extrajudicial killings. The Government demonstrated an increased willingness to arrest and prosecute those responsible and achieved some convictions in high-profile cases; however, in many cases, the scarcity of law enforcement resources and a weak prosecutorial and judicial system prevented the Government from adequately investigating killings and other crimes or arresting and successfully prosecuting perpetrators.

The number of reported extrajudicial killings continued to decline. The office of the Human Rights Ombudsman (PDH), which generally compiles data based on personal interviews with victims and their families, reported 13 complaints of extrajudicial killings during the year, compared with 16 complaints in 1999 and 32 complaints in 1998. Based on 20 complaints alleging 21 extrajudicial killings in the 9-month period between October 1, 1999, and June 30, MINUGUA investigated 15 cases and confirmed 13. It reported 27 such complaints in the first 9 months of the year.

MINUGUA's 11th Human Rights Report, released on August 31, noted a number of extrajudicial killings by members of the PNC. Many of these cases involved accidental discharges of weapons, drunken misbehavior by on- or off-duty officers, questionable crowd control techniques, or poor judgment by officers who lost control of unstable situations involving angry crowds or persons resisting arrest. Other cases presented signs of premeditation and malicious intent. In many of these cases, there was effective investigation by both the PNC's Office of Professional Responsibility (ORP) and the prosecutors of the Public Ministry; however, in some cases, there was credible evidence of a coverup by PNC officers, the ORP, or both.

On February 5, PNC officers without a warrant conducted a sting operation against street vendors of pirated music recordings in an outdoor market in Guatemala City. When a confrontation ensued with angry vendors, a combined patrol of additional police and army units was called to provide backup. As the situation deteriorated, police forces fired their weapons into the air to regain control of the crowd that had gathered. During the confusion, street vendor Francisco Ixcoy Osorio was shot and killed; other persons present were injured. The authorities investigated the killing and arrested several suspects. On June 5, the Public Ministry accused six PNC officers and three army soldiers of homicide. The PNC officers claimed that colleague Alfredo Saso Perez killed Osorio and that two of their superiors—Commissar Virgilio Ramos and Chief of Operations Diones Arriaza Solis—used death threats and false testimony to organize a coverup to impede the Public Ministry's investigation. In June the judge released the accused on bail and provisionally closed the case due to lack of evidence. The Public Ministry appealed this decision, arguing that a case should be pursued against Ramos and Arriaza, and that Saso Perez should be arrested. The Fourth Appellate Court rejected the appeal; however, the Public Ministry continued its investigation, and hoped to reopen the case if new evidence is found.

On March 6, in San Jose Acatempa, Jutiapa, Byron Florian Yanez and Jose Mendez Interiano, two police officers in a PNC patrol car, shot off-duty PNC officer Sergio Barahona Arana from behind and killed him. MINUGUA found that the local PNC falsified its report of the incident, in which it claimed that Barahona had a gun in his hand when he died and that there had been a shootout with the other police officers. There was credible evidence that police later conducted searches and fired weapons into the front of a school building to simulate a gun battle as part of their coverup. MINUGUA also cited evidence that the ORP participated in the coverup by altering its investigative report. Florian Yanez was a fugitive until he was found dead of a gunshot wound on May 31 in Jutiapa. On April 5, the authorities arrested Mendez Interiano; he was in jail awaiting trial at year's end, accused of participating in the coverup. In addition, the Police Commissioner of Jutiapa has not collaborated with the Public Ministry prosecutor in the case; he refused to turn over photographs of the crime scene and the weapons used in the crime.

On April 19, in Coban, Alta Verapaz, Denis Fredy Cucul Tun argued with PNC officers about the fact that his car was parked in a street that was to be cleared for a religious procession. Officer Rolando Salvador Rubio Choc took Cucul to the opposite side of the street, held him against a wall at arm's length, and shot him in the chest at pointblank range, killing him. Hearing the shot, a crowd quickly gathered and sought to lynch Rubio, who fled to the nearby police station. An ORP investigation quickly established Rubio's responsibility for the killing, despite his argument that his weapon accidentally discharged, and he was jailed while the Public Ministry conducted its investigation and prepared to go to trial. MINUGUA confirmed in its 11th report that PNC officers had tried to cover up the facts of the case and impede the Public Ministry's investigation. MINUGUA also noted that Rubio had violated PNC protocols by carrying a weapon that was loaded and contained unauthorized expanding cartridges.

In some cases, detainees or prisoners died while in the custody of PNC officers or Criminal Investigation Service (SIC) detectives, apparently due to torture or abuse (see Section 1.c.).

On March 11, detainee Luis Armando Colindres was found dead in his cell at a PNC substation in Zone 12 of the capital, apparently the victim of strangulation. The PNC claimed that Colindres hanged himself, but the forensic report found injuries consistent with a struggle to resist being strangled. A judge ordered the detention of PNC officers Santos Medardo Recinos Moran, Elman Avigail Garcia Pineda, and Jeremias Santiago Godoy Ramos on charges of homicide. On June 7, the judge granted a defense motion to modify the charges to material document fraud (because PNC reports were altered) and abandonment of duty and released the defendants on bail. A Public Ministry appeal of these decisions was pending at year's end.

Although most cases from past years remained unresolved, there were some convictions during the year for past extrajudicial killings by members of the security

forces. In contrast to 1999, there were fewer judicial setbacks in human rights cases. At year's end, trials continued in several high profile cases. In many other cases of past extrajudicial killings, there was little or no progress, often due to the tactics of defense attorneys who frequently abused the legal system by filing dilatory motions to derail impending trials against their military clients.

The investigation entered its final stages and pretrial preparations began against five defendants in the April 1998 murder of Bishop Juan Gerardi Conedera, the Coordinator of the Archbishop's Office on Human Rights (ODHAG). President Portillo promised in his inaugural address that all state institutions would cooperate fully in the investigation. Bishop Gerardi was killed just 2 days after his public delivery of the final report of the "Recovery of Historical Memory" project, which held the military and its paramilitary allies responsible for more than 90 percent of the human rights violations committed during the 36-year-long internal conflict. After 2 years under Public Ministry witness protection, on January 17, former indigent Ruben Chanax Sontay gave additional testimony before Judge Flor de Maria Garcia Villatoro in which he implicated several individuals in Gerardi's murder. Based largely on Chanax's new testimony, on January 21, Judge Garcia issued arrest warrants for five suspects: Retired army Colonel Byron Disrael Lima Estrada; his son, army Captain Byron Miguel Lima Oliva; former EMP Specialist Jose Obdulio Villanueva Arevalo; Father Mario Leonel Orantes Najera; and former parish house cook Margarita Lopez. (Lopez, who was charged with being an accessory after the fact, had been detained briefly in 1998 and then released.) Lima Estrada, Lima Oliva, and Margarita Lopez were arrested on January 21, followed by Villanueva on January 22. On February 9, Father Orantes, who had been arrested and charged with the murder in October 1998, then released in February 1999, secretly returned to the country and immediately checked into a hospital, claiming that his health was too poor to be sent to jail. On February 15, Judge Garcia granted Orantes permission to remain in the hospital, based on a court-ordered medical examination that confirmed his health problems.

Shortly after Villanueva's arrest, his defense attorney presented evidence indicating that he was actually in prison in Antigua on the night of Gerardi's murder, completing the final days of his prison sentence for the 1996 killing of Pedro Sas Rompich. On February 25, Judge Garcia released Villanueva, based on this new information and a lack of Public Ministry evidence to the contrary. On March 15, lead prosecutor Leopoldo Zeissig released the results of a handwriting analysis that demonstrated that Villanueva had not signed personally for his EMP paychecks in prison for several months, including at the time of the Gerardi murder. (Villanueva had remained on the EMP payroll while serving his prison sentence.) In early April, Zeissig also produced a former cellmate of Villanueva's, Gilberto Gomez Limon, who testified that Villanueva frequently was allowed to leave prison, including on the night of the Gerardi murder. This new evidence convinced Judge Garcia to order Villanueva's rearrest, which occurred on April 7.

On March 16, Judge Garcia ruled that prosecutors had presented sufficient evidence against Margarita Lopez to send her case to trial on charges of participating in a criminal coverup. Also on March 16, Zeissig filed charges against navy Captain Carlos Rene Alvarado Fernandez for falsifying Villanueva's signatures on his paycheck receipts and lying to conceal the fraud. On March 21, another court-ordered medical exam confirmed that Father Orantes should continue to spend his pretrial detention in the hospital. In April Judge Garcia ruled that Father Orantes must face trial on charges of murder, based largely on Chanax's testimony and contradictions in Orantes' own statements. On April 24, Chanax left the country under Public Ministry witness protection due to concerns for his safety.

On April 26, the Catholic Church was granted status as a private plaintiff in the case. ODHAG, as the Church's legal representative, gained the right under the law to present witnesses and other evidence at trial and to prosecute the accused alongside the Public Ministry prosecutors. On May 9, the Fourth Court of Appeals agreed with defense attorneys representing Father Orantes and Margarita Lopez that ODHAG did not have sufficient "juridical standing" to act as private plaintiff in the case against them. However, the ruling did not apply to ODHAG's participation in the case against the three military suspects.

On May 18, Judge Garcia charged the three military suspects, Lima Estrada, Lima Oliva, and Villanueva, with the extrajudicial execution of Bishop Gerardi. The charge of "extrajudicial execution," unlike the charge of murder, generally is reserved for members of security forces on active duty, although Lima Estrada was not on active duty in 1998. The judge's decision was based largely on the testimony of witness Ruben Chanax Sontay, which placed all three military defendants at or near the crime scene on the night of the murder. In late July, witness Juana del Carmen Sanabria, the former administrator of Bishop Gerardi's parish house, left

the country due to death threats. A total of seven judges, prosecutors, and witnesses have left the country due to threats and intimidation in the case. On August 1, Lima Oliva was involved in a disturbance in prison and was injured slightly. He claimed that other inmates were trying to kill him, but the other inmates claimed that he started the fight and was trying to take control of the cellblock. During the scuffle, several items, including a planner/organizer, disappeared from Lima Oliva's cell and later were found in the possession of Public Ministry prosecutors, whom Lima Oliva accused of masterminding the disturbance for the purpose of "stealing" the documents. On August 7, Judge Garcia granted conditional freedom to Margarita Lopez, allowing her to await trial under house arrest rather than in prison. Another court-ordered medical exam in August confirmed that Father Orantes' poor health required that he remain hospitalized.

After one judge recused herself for a supposed friendship with Lima Estrada and another resigned after being challenged for bias by ODHAG, in July a three-judge panel to hear the case at trial was constituted, with Judge Eduardo Cojulun presiding, joined by Judges Jazmin Barrios and Carlos Chin. A number of appeals and motions filed by the defense attorneys in July and August delayed the trial against all five defendants from October until early 2001. Prosecutors acknowledged publicly that they are pursuing a political motive theory for the upcoming trial, arguing that Gerardi was killed by current or former members of the military with the assistance of Father Orantes and Margarita Lopez. MINUGUA confirmed multiple complaints by Judge Garcia and other judicial colleagues, prosecutors, witnesses, and ODHAG staff of numerous threats and acts of intimidation, including telephone threats, electronic surveillance, and observation by unknown individuals following them on foot or in vehicles (see Sections 1.e. and 4).

Negotiations continued regarding indemnification for the family of Pedro Sas Rompich, who was killed in 1996 by Jose Obdulio Villanueva Arevalo, while Villanueva was acting as a bodyguard for then-President Arzu. Villanueva has since served a commuted prison sentence for the killing and spent most of the year in jail as one of five suspects in the murder of Bishop Gerardi. A court-ordered damages award to be paid by Villanueva to the victim's survivors remained pending.

On April 28, the Supreme Court of Justice (CSJ) annulled an appellate court's December 1999 verdict in the Xaman massacre case, in which an army patrol entered a refugee-returnee community at Xaman, Alta Verapaz, in October 1995, killing 11 persons and injuring 30 others. The Appellate Court had found 15 members of the patrol innocent and resented the remaining 10 members to 12-year prison sentences. The prosecutor had appealed the Appellate Court's decision, feeling that the sentences were too lenient. The CSJ decision remanded the case back to the trial court for a retrial. At year's end, the case continued to be delayed by appeals that must be resolved before the retrial can begin. The original trial was the longest in the country's history and was marked by numerous death threats and acts of intimidation against judges, prosecutors, witnesses, and family members of the victims.

Two former police officers sentenced to death in 1996 in the so-called Patrol No. 603 case remained on death row pending the outcome of several appeals by their defense attorney. The case stems from a 1995 murder and attempted murder in what appeared to be a "social cleansing" operation, in which persons deemed socially undesirable (e.g., gang members, local delinquents, or convicts released from prison) are found murdered in circumstances suggesting that the killing was planned and carried out by an organized group. Similarly, there was no progress in the related case before the IACHR.

The August 1994 killing by police of four workers at La Exacta farm remained under investigation, and the criminal case remained suspended. The parties continued to seek a resolution through the IACHR's amicable settlement procedures. Negotiations continued regarding a settlement of the pending labor court charges, with intervention from the Labor Ministry and the Presidential Human Rights Commission (COPREDEH) to install a Conciliation Court to resolve the dispute. The Center for Legal Assistance in Human Rights (CALDH) continued to represent the families of the deceased, the injured, and those who lost their jobs and homes during the illegal eviction. On August 9, President Portillo signed an agreement with the IACHR in which the Government acknowledged its responsibility for failure to provide justice in the case and promised both to pay reparations and pursue renewed criminal investigations against those responsible for the violence.

An appellate court ruling remained pending in the case of the 1994 murder of Constitutional Court president Epaminondas Gonzalez Dubon. Both the prosecution and defense appealed aspects of the May 1998 murder conviction of Marlon Salazar and Roberto Antonio Trabanino, who were serving 27-year prison sentences for the crime at year's end. A third suspect, Mario Rene Salazar, remained at large. On August 8, another suspect implicated in the Gonzalez Dubon murder, Elser Omar

Aguilar, was found dead in the trunk of a car in Guatemala City. His body showed signs of torture. In February an appellate court reaffirmed the 14-year jail sentence for narcotics trafficking imposed in July 1999 on former Lieutenant Colonel Carlos Rene Ochoa Ruiz, widely suspected of being the intellectual author of the Gonzalez Dubon murder.

Defense attorneys in the case of the murder of anthropologist Myrna Mack Chang continued to file appeals in order to delay the proceedings, and the courts continued to fail to resolve those appeals in a timely manner. In January 1999, Judge Henry Monroy ordered a trial of the three high-ranking military officers accused of ordering the 1990 murder: Retired General Edgar Augusto Godoy Gaitan, Colonel Juan Valencia Osorio, and Colonel Juan Guillermo Oliva Carrera. A trial originally scheduled for early in the year was delayed by appeals filed by defense attorneys. On March 27, Myrna Mack's sister, Helen Mack Chang, met with CSJ representatives to learn why there had been no decision regarding a defense appeal filed on November 4, 1999, nearly 5 months earlier (the law sets a 30-day time limit for resolving such appeals). CSJ representatives had no answer at that March 27 meeting, but on March 29, they announced that they actually had issued a decision in the appeal on March 23. That decision denied the appeal and fined the defense attorney approximately \$130 (1,000 quetzals) for filing a frivolous appeal. On March 31, the defense attorney filed another appeal, this time of the CSJ's March 23 decision. On May 8, that appeal was recognized by the Constitutional Court, which set a May 11 date for a hearing on the merits. However, the Court still had not resolved the appeal at year's end. EMP member Noel de Jesus Beteta, who confessed to the killing, continued to serve a 30-year sentence. On March 3, the Government signed an agreement with the IACHR in which it accepted responsibility for Myrna Mack's murder as well as the denial of justice and proposed an amicable settlement, which was refused by Helen Mack. A commission composed of a Guatemalan jurist and an international expert was established under IACHR auspices to monitor due process in the case.

In November the Government reached a settlement with the InterAmerican Court of Human Rights to pay reparations to the survivors of the 1990 killing of three street children—Julio Roberto Caal Sandoval, Jovito Josue Juarez Cifuentes, and Anstraun Villagran—and two indigent adults, Federico Clemente Figueroa Tunchez and Henry Giovanni Contreras, by police officers (see Sections 4 and 5). In December 1999, the Court ruled that there was sufficient evidence that police officers Samuel Rocaél Valdes and Nestor Fonseca were responsible for the deaths. The Court also ruled that the Government failed to protect the rights of the victims and provide them with justice.

On August 9, the Government signed an agreement before the IACHR in which it accepted responsibility for its failure to provide justice in the unresolved disappearances in 1989 of 10 university students, 5 of whom were later found dead, and pledged to negotiate an amicable settlement with the victims' survivors, including reparations and criminal prosecution of those responsible.

On August 11 and 12, the Inter-American Court held hearings to set the amount of compensation owed to the families of the victims in the "white van" case; the Court's decision remained pending at year's end. Separately, the Government also offered to enter into settlement negotiations with the victims' survivors. In March 1998, the Court had found the Government liable in the case, in which members of the now-disbanded Treasury Police kidnaped and then either released or killed 11 persons in 1987/88.

In the case of the 1982 military massacre at Dos Erres, Peten, prosecutors secured relocation abroad for two key witnesses and their families in exchange for their testimony against their former army comrades. On March 17, former army Sergeants Favio Pinzon Jerez and Cesar Franco Ibanez testified before a judge about the massacre of more than 200 unarmed civilians on December 6–8, 1982, in the village of Dos Erres. In their testimony, they implicated several former comrades and gave detailed accounts of the massacre, before departing the country under witness protection from the Public Ministry. Based on their testimony, prosecutors obtained arrest warrants against 16 former members of the implicated army patrol. Defense attorneys eventually contested 10 of those arrest warrants, arguing that their clients should be protected from prosecution by the National Reconciliation Law, which grants limited amnesty for certain acts committed during the internal conflict. The Constitutional Court granted temporary injunctions against the arrest warrants so that the petitions could be decided on their merits. On July 7, an appellate court found the petitions to be without merit and denied them. The defense appealed that ruling to the Constitutional Court, where a decision remained pending at year's end. The PNC did not execute six of the arrest warrants, nor did they present the warrants to the military, even though many of the suspects still were on active duty

at the time. On December 4, the prosecutor publicly urged the PNC to act on the warrants of four military suspects, including Vicente Alfonso Bulux, Santos Lopez Alonzo, and Fredy Antonio Samayoa Tobar.

Army Sergeant Major Manuel Pop Sun, who was arrested in April and later released under a temporary injunction, remained the only individual to have been arrested in the Dos Erres case by year's end. On June 14, Pop Sun appeared at the MINUGUA offices claiming that the army had imprisoned him in a military hospital, kept him drugged with antipsychotic medications, and was trying to kill him because of his knowledge of the Dos Erres massacre. Pop Sun offered his testimony to prosecutors in exchange for witness protection, but later jumped from a second-story window and fled from Public Ministry protection. Prosecutors stressed that Pop Sun was free to depart at any time, as his participation in the witness protection program was voluntary. His odd behavior raised speculation about the true intent of his offer to testify, and he remained a suspect in the case at year's end. In its 11th Human Rights Report issued in August, MINUGUA noted the presence of Military Intelligence observers when it tried to interview Pop Sun at the Military Medical Center. MINUGUA also found that Pop Sun had been overmedicated while in the military hospital and concluded that his treatment there amounted to torture and abuse.

On March 3, the Government signed an agreement before the IACHR in which it recognized its institutional responsibility for the Dos Erres massacre. Represented by COPREDEH, the Government pursued settlement negotiations with the victims' survivors, who were represented by two NGO's—Families of the Disappeared in Guatemala (FAMDEGUA) and the Center for Justice and International Law. In those negotiations, the Government agreed in principle to prosecute aggressively the material and intellectual authors of the massacre, pay for reparations and other community assistance for the survivors, create a historical document that recounts what happened at Dos Erres, and erect a memorial in honor of the victims. Those negotiations continued at year's end, with reparations as the central focus. On December 1, in accordance with recommendations of both the IACHR and the Inter-American Court, the Government created a Special Commission to Locate and Identify Families and Victims of the massacre at Dos Erres. On December 7, a monument to the victims of the Dos Erres massacre was erected at the cemetery of the Aldea Las Cruces.

On February 1, an appeals court in Coban substituted 50-year prison sentences for the death penalties handed down by a trial court in October 1999 against three former Civilian Defense Patrol (PAC) members in the March 1982 massacres at Rio Negro and Agua Fria, two villages in Rabinal, Baja Verapaz. The Appeals Court gave the three defendants, Carlos Chen, Francisco Gonzalez Gomez, and Fermin Lajuj, 30 years in prison for each of the two murders proven at trial, for a total of 60 years' imprisonment; however, the law sets the maximum prison sentence at 50 years. In June a survivor of the Rio Negro massacre, who was adopted and raised by a foreign family, returned for the first time. She was reunited with surviving members of her family and called on the Government to provide reparations for the impoverished survivors of the conflict-era massacres.

On May 2, CALDH filed a lawsuit on behalf of 10 communities in Quiche and Chimaltenango whose citizens were massacred by government security forces between October 1981 and March 1982, resulting in over 850 deaths. The suit alleges crimes, including genocide, committed by high command of the regime of former President Fernando Romeo Lucas Garcia. In addition to Fernando Lucas Garcia, the suit also names his brother (and former army Chief of Staff) Benedicto Lucas Garcia and former Defense Minister Luis Rene Mendoza as defendants. By the end of the year, prosecutors had made significant progress in their investigation. The suit is the first genocide case to be brought in a Guatemalan court and is a precursor to a similar suit that CALDH plans to file against the regime of former de facto President and current President of Congress Efraín Ríos Montt.

There was no apparent progress in recapturing 12 former PAC members convicted in 1999 for the 1993 killing of Juan Chanay Pablo in Colotenango, Huehuetenango, and then freed in April 1999 from a police station by a crowd armed with sticks, machetes, homemade explosives, and smoke bombs. Although arrest warrants were issued to recapture the escapees, they remained at large despite credible reports that they had returned to their home region of Colotenango and were being protected by former PAC comrades. There also was no progress in the investigation of Brigadier General Luis Felipe Miranda Trejo, the alleged intellectual author of the crime, who was elected to Congress in the November elections and therefore enjoys legislative immunity from prosecution. According to the Government, amicable settlement negotiations between the Government and the victim's survivors, mandated by the IACHR, neared completion by year's end. The Government continued to pro-

vide security for several human rights activists in Colotenango in accordance with a resolution of the Inter-American Court.

The Supreme Court ordered the Public Ministry to conduct a new investigation into the 1993 murder of newspaper publisher and former presidential candidate Jorge Carpio Nicolle and three associates. Suspect Francisco Ixcoy Lopez, former PAC member, remained at large, despite the fact that the Carpio family had located him at one time and informed the authorities of his whereabouts. The criminal case remained open, but the Public Ministry made no efforts to advance the case and the victim's family withdrew the charges. The case before the IACHR for the Government's failure to provide justice remained pending at year's end, as did a motion to send the case forward to the Inter-American Court. The family of Jorge Carpio requested that the IACHR authorize that the case be taken up by the Court, since they believed that justice was not being served in the Guatemalan courts. The Commission's decision was pending at year's end.

On January 31, a court convicted former PAC member Vicente Cifuentes Lopez of homicide in the 1985 murder of American journalist Nicholas Blake and sentenced him to 28 years' imprisonment. In May police and prosecutors located three other suspects in the case in the remote Cuchumatanes Mountains; however, the Government made no effort to recapture the suspects and they remained at large at year's end. On March 30, the Government paid restitution of \$161,000 (1 million quetzals) to Blake's survivors as mandated by the Inter-American Court.

On February 15, an appeals court upheld the November 1999 trial verdict in which former military commissioner Candido Noriega was found guilty of six murders and two cases of manslaughter and sentenced to 220 years in prison. On August 24, the CSJ rejected a similar appeal and upheld both the guilty verdict and the 220-year sentence. (In 1996 the Penal Code was modified to extend the maximum sentence for murder from 30 to 50 years' imprisonment. Because the case began prior to this change, the commuted death sentence for the two murder convictions is for 30 years.) There was no progress in the court-ordered investigation of Noriega's alleged accomplice, Juan Alesio Samayoa, or in the investigation of military officers who served at the so-called Base 20 in Quiche in 1982, the suspected intellectual authors of some or all of Noriega's actions.

On August 28, a court acquitted Lazaro Obispo Solorzano Lopez and Henry Orlando Hernandez Montepeque of the May 1999 kidnaping and murder of oil refinery businessman Edgar Ordonez Porta. Neither prosecutors nor the private plaintiff, the victim's brother Hugo Ordonez Porta, pursued a serious case against the accused during the trial; instead, Hugo Ordonez presented witnesses and evidence that asserted that members of Military Intelligence may have committed the murder. Ordonez also claimed that Military Intelligence conducted a parallel investigation that significantly interfered with the official investigation and may have led the Public Ministry and the PNC into conspiring in a coverup. Also on August 28, the trial court acknowledged the parallel investigation and interference, ordered a new investigation, and left the case open with respect to additional suspects, including several high-ranking military and police officials, as well as the former prosecutor in the case. The motive for the killing remained unclear. During the year, the Attorney General named Leopoldo Zeissig as prosecutor; he was reviewing testimony at year's end.

There was no progress in the 1997 killing of congressional Deputy Joel Salomon Mendoza Pineda and his nephew. The court case against two former congressional deputies was dismissed, and there was no case pending against the former mayor of Escuintla, a suspected intellectual author. In August 1998, the court of appeals upheld the 50-year prison sentence for the four persons convicted of the murder. In October 1999, the CSJ upheld the immunity of Alfred Reyes and Guillermo Deominguez and determined that the evidence against the legislators was insufficient to oblige them to go to trial.

On June 1, the National Security Archive, an NGO, publicly released its two-volume publication entitled "The Guatemalan Military: What the United States Files Reveal." Volume One is a database of Guatemalan military officers and the positions they held during the internal conflict. Volume Two is a compilation of over 50 key declassified documents said to be representative of the thousands of documents collected during the group's "Guatemala Documentation Project," which was begun in 1994 to support the Historical Clarification Commission's efforts to catalog the devastation of the 36-year internal conflict. Human rights activists viewed the report largely as a tool to determine the responsibility of individual military officers for specific human rights abuses during the internal conflict.

There was little progress in the investigations into the "military diary," an apparently genuine military intelligence dossier that documented the abduction, torture, or killing of 183 persons by security forces during the 1983-85 period. The National

Security Archive had released that document publicly in May 1999. The Government responded by appointing 35 prosecutors to handle the cases and a supervising prosecutor designated with overall coordination. Public Ministry investigators made slow progress during the year and learned that some of the victims named in the document still were alive and living either in the country or abroad. The unit that compiled the document has not yet been identified.

Exhumations of clandestine cemeteries continued throughout the year. Most of the bodies recovered have been those of victims of military or paramilitary killings in the 1980's. Forensics groups use the information obtained from the exhumations to verify eyewitness reports of massacres, of which 669 were recorded by the Historical Clarification Commission, and to determine, at least in general, who might have been responsible. Forensic research and DNA testing have identified some of the remains. The forensic evidence has been used in some criminal cases. During the year, ODHAG's Forensic Anthropology Unit exhumed bodies from eight sites in Alta Verapaz, Quiche, Santa Rosa, Huehuetenango, and San Marcos. As of September, workers at these sites had found 419 skeletons and identified 28. By the end of August, the forensic team of the Office of Peace and Reconciliation of the Quiche Diocese conducted excavations of 44 sites in Quiche, where they exhumed a total of 95 human remains, of which 19 were infants and none were identified. Twelve of these sites (containing 28 remains) were found within the grounds of the Joyabaj Parochial Convent, which served as a military detachment headquarters during the 1980's. Threats and intimidation against persons working on exhumations continued, but at lower levels than in previous years. ODHAG reported attempts by landowners to prevent exhumations on their property and, in some cases, suspected clandestine cemetery sites had been disturbed just prior to their investigation. At the end of the year, ODHAG's forensic anthropology unit had ceased work while waiting for a change in funding. Through August the Forensic Team of the Office of Peace and Reconciliation of the Quiche Diocese conducted exhumations at 44 different clandestine cemeteries throughout Quiche department.

In October the prosecutor requested that the judge close the case of the clandestine cemetery alleged in 1999 to be on the grounds of a former Mobile Military Police (PMA) facility. An October 1999 excavation failed to produce any human remains. There was little progress in the investigation into metal fragments found at the site that prosecutors believe were once license plates used during clandestine operations. The delays were due in part to the January resignation of prosecutor Fernando Mendizabal, who feared reprisals from the new FRG-led Government for his role in the investigation into the nationwide smuggling ring led by Alfredo Moreno.

In December press reports suggested that the Guatemalan Forensic Anthropology Foundation (FAFG) recently unearthed the remains of 20 persons in a clandestine cemetery located near San Martin Jilotepeque, Chimaltenango, in what was used as a military post from 1982 to 1986. FAFG staff reportedly believe that the cemetery is one of at least seven in the area.

The criminal case filed in Spain in December 1999 by indigenous leader and 1992 Nobel Peace Prize laureate Rigoberta Menchu Tum against eight former military and civilian leaders for human rights abuses committed during the 36-year internal conflict was not heard by the court. The suit alleged that the defendants, including former de facto President and current president of Congress Efraín Ríos Montt, former President and retired General Fernando Lucas García, former de facto President Oscar Humberto Mejía Victores, and five other defendants were responsible for "crimes against humanity," including genocide, torture, and terrorism. The suit cited 3 cases—the 1980 assault on the Spanish Embassy in which more than 30 persons died, the killing of Menchu's mother and 2 siblings, and the killing of 4 Spanish priests over the course of the conflict.

On April 29, Spanish Judge Guillermo Ruiz Polanco denied the third motion in 4 months by Prosecutor Pedro Rubira to dismiss the Menchu suit. This motion was based on the argument that the cases presented by Menchu effectively were adjudicated by the signing of the Peace Accords in 1996, which ended the internal conflict. (The earlier motions had contested Spanish jurisdiction in the case.) During the year, Judge Ruiz Polanco called several witnesses to testify in Spain, including Congresswoman Nineth Montenegro, former Spanish Ambassador to Guatemala Maximo Cajal, former Historical Clarification Commission member Alfredo Balsells Tojo, and Jesuit author Ricardo Falla.

Early in the year, several organizations and individuals attempted to join the Menchu suit, sometimes trying to add numerous additional crimes and defendants. For example, in April Human Rights Ombudsman Julio Arango attempted to join the suit with additional complaints against Lucas García and Mejía Victores. Similarly, in April the human rights NGO the Mutual Support Group (GAM) added 8

additional defendants from the Vinicio Cerezo Arevalo regime to the Menchu suit, accusing former civilian and military leaders of the extrajudicial killings of 53 university student leaders between 1984 and 1990. In May the family of one of the four Spanish priests whose murder constitutes part of the Menchu complaint joined the suit. On December 13, the Spanish court decided not to hear the case. The decision was based in part on the fact that it was not clear that justice in the case could not be achieved in Guatemala, since a genocide case had yet to be tried by the Guatemalan court system.

Attorneys for Mejia Victores made little progress in their counter-charges against Menchu in Guatemalan criminal court, in which they accused her of treason, violating the Constitution, and failing to report a crime by filing charges in a Spanish court rather than a Guatemalan court. In early August, the Spanish court denied a request by prosecutor Candido Bremer for a copy of Menchu's complaint, which Bremer intended to use in his investigation of Mejia Victores' accusations against Menchu. In response, Menchu filed a brief with the Guatemalan court in which she defended her right to file the Spanish lawsuit, based on Guatemala's international treaty obligations that provide for the extraterritorial prosecution of crimes against humanity and genocide. The press reported in November that the counter-suit brought against Menchu in Guatemala by attorneys for Mejia Victores had been closed.

Menchu and various staff members of her human rights NGO, the Rigoberta Menchu Tum Foundation, have been targeted with numerous death threats and other acts of intimidation since the lawsuit was filed in Spain. The number of death threats against Menchu increased sharply in April and May, as it did generally among the human rights community and journalists (see Sections 2.a. and 4.).

Intimidation of witnesses continued to be a problem, although at less than 1999 levels; there were no reports of the killing of witnesses. For example, two witnesses in the Bishop Gerardi murder case, Ruben Chanax Sontay and Juana del Carmen Sanabria, left the country due to threats and intimidation. Several potential witnesses were intimidated in the case of murdered Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda. Several witnesses in the Ordonez Porta case also were threatened.

There were some allegations of politically motivated killings by nonstate actors during the year, and the authorities demonstrated a willingness to investigate these murders. In some of these cases, there was insufficient evidence to conclude whether or not the killing was politically motivated.

On June 22, Oswaldo Monzon Lima, Secretary General of the 90member Union of Gasoline Transport Drivers in Escuintla, was killed. His body, shot once in the back, was found on June 23 in a thicket across the highway from his abandoned tanker truck. Since 1998 Monzon Lima had been involved in an ongoing dispute with his employer at the time, president of the Association of Fuel Transporters Mario Ortiz Barranco. In 1998 Monzon Lima had filed a complaint with the police that Ortiz had threatened to have him killed, based on a suit in the labor courts alleging that Ortiz had fired illegally three union leaders within weeks of the union's formation. In addition, Monzon had presented the Ministry of Energy and Mines with a file that outlined irregularities in Ortiz's conduct of his gasoline transportation business, including his use of forged permits and licenses. On June 19, Monzon refused to accept a settlement offer from Ortiz in the suit over the illegal firings. He was murdered 3 days later. By September the Public Ministry's investigation was proceeding normally with Ortiz as the primary suspect.

On February 29, Erwin Haroldo Ochoa Lopez and Julio Armando Vasquez, two environmentalists working for the National Council for Protected Areas (CONAP), a governmental environmental protection agency, were killed outside a restaurant in Puerto Barrios, Izabal. MINUGUA noted serious mishandling of the crime scene, including the fact that police would not allow firemen to administer first aid to the victims, who still were alive when firemen first arrived on the scene, but who died shortly thereafter. The Public Ministry's investigation eventually focused on retired army Colonel Sergio Otoniel Ponciano, who owned a private security firm and a ranch in a protected area. In August the authorities arrested Ponciano and charged him with murder. Separate investigations by SIC detectives and Public Ministry prosecutors underscored the lack of coordination between these two organizations on both the local and national levels.

In October Maura Ofelia Paniagua Corzantes, civil law coordinator for the law clinic at San Carlos, was murdered. She was in charge of receiving criminal complaints, particularly complaints of violence against women, on behalf of the University, which is recognized under domestic violence law. The day before Paniagua was killed, someone came to the door to see her; her maid told the person that she was not available and the person went away. The following day the same person re-

turned and shot her repeatedly. At year's end, the Public Ministry was investigating the case to determine a motive and suspect for the killing.

On March 2, on a road near Coban, Alta Verapaz, four armed men attacked a group of attorneys, judicial personnel, representatives of the Human Rights Ombudsman's office, and farmers, leaving three persons dead and three wounded. The group was travelling to a meeting where it planned to mediate a dispute between ranchers and small farmers over the use of a new road. PNC officers later arrested rancher Hermelindo Caal Rossi and an unidentified minor for the killings. The case was under investigation by the Public Ministry at year's end.

On May 4, Jose Anancio Mendoza Garcia was found dead in a well in Camotan, Chiquimula. His body showed signs of multiple injuries that indicated that he was murdered. Mendoza Garcia was a former New Nation Alliance (ANN) candidate for mayor in Camotan, as well as a local leader of the Council of Ethnic Communities Runujel Junam (CERJ), a prominent indigenous human rights organization. There was no clear motive for his killing, but Mendoza's CERJ and ANN colleagues concluded that his murder was politically motivated. There was little progress in identifying a motive or a suspect by year's end.

There were some trials resulting in convictions for past cases of politically motivated killings, but many cases remained unresolved, including the 1999 murders of Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda.

On July 27, a court convicted former Santa Cruz mayor Silverio Perez de Leon and former city council member Justo Lopez and sentenced them each to 50 years' imprisonment for their roles as intellectual authors of the May 1998 murder of acting mayor Luis Yat Zapeta. Former treasurer Cayetano Alvarez Velasquez was found innocent. Prosecutors convinced the court that the crime was committed in revenge for Yat's successful effort to remove Perez de Leon from office on charges of corruption. An appeal of the trial court's verdict was pending at year's end. Bernardino Zapeta Vicenta, Tomas Zapeta Ixcoy, and Manuel Pacajoj Mejia, the suspected material authors of the killing, were in jail for an unrelated robbery.

In the case of murdered Retalhuleu Prosecutor Shilvia Jerez Romero de Herrera, on August 7, the 7th court of appeals upheld the death sentence handed down by a trial court in October 1999 against Agosto Negro gang member Tirso Roman Valenzuela Avila. In that decision, the appeals court modified the trial court's verdict with respect to Jorge Ever Lopez Monroy, to whom it also gave the death penalty, and Waldemar Hidalgo Marroquin and Jaime Raul Quezada Corzo, each of whom received 50-year prison sentences for the May 1998 murder. They previously had been set free by the trial court. The CSJ upheld the death sentence for Valenzuela Avila and upheld the 50-year sentences for the other three defendants.

Prosecutors determined that the January 1999 killing of alleged gang member Olman Alexis Viera Rodriguez, and the May 1999 murder of New Guatemalan Democratic Front (FDNG) leader Roberto Gonzalez Arias were not politically motivated.

Prosecutors continued to investigate the 1999 murders of Zacapa Municipal Workers Union leaders Robinson Morales Canales and Angel Pineda, both of whom had protested labor rights violations and corruption in the Zacapa mayor's office. Prosecutors made no apparent effort to continue to investigate former Zacapa Mayor Carlos Vargas y Vargas, his driver, or his bodyguard, who were believed widely to be the intellectual and material authors of the murders. On February 3, police arrested Carlos Anibal Paz Gordon, a former employee of a company owned by persons close to Mayor Vargas, as the suspected material author of the crime. Paz Gordon's alleged accomplice, Carlos Ramiro Mende Aldana, remained at large at year's end. Paz Gordon's trial originally was scheduled to begin on February 15, but was delayed by a change in the prosecutor and a series of pretrial evidentiary motions and hearings. On October 5, the court convicted Paz Gordon and sentenced him to 20 years' imprisonment. Several other Zacapa Municipal Workers Union members claimed to have received death threats, as did several key potential witnesses. MINUGUA reported in 1999 that the prosecutors in Zacapa seriously mishandled several aspects of the investigation against the material authors.

Six months after the May 1999 abduction and killing of Tomas Tol Salvador, an FDNG leader in Quiche and human rights activist for the CERJ and for the Council of Ethnic Communities, an indigenous organization, the courts finally ordered the January 18 exhumation of an unidentified body. The body was confirmed to belong to Tol Salvador. No suspects were identified and no clear motive had been established by year's end; the case remained under investigation.

In the May 1999 killing of former Judge Herberto Zapata Gudiel, prosecutors requested provisional closure of the case while they gather additional evidence against primary suspect Elmer Ezequiel Hernandez Salazar. In addition prosecutors ruled

out the possibility that Zapata might have been involved in narcotics trafficking. The case still was pending at year's end. Two presumed suspects were identified, but the judge provisionally closed the case against them pending the discovery of further evidence.

The investigation into the July 1999 murder of Mayan priest Raul Coc Choc remained provisionally closed for lack of evidence, although prosecutors continued their investigation. Coc Choc was a leader of the National Association of Mayan Priests; members of the board reported that he had received numerous death threats over the telephone prior to his murder. The Public Ministry has accused Julian Chonay Buc and Josefina Cristal Costop of the crime, but the judge provisionally closed the case for lack of evidence. The Public Ministry has requested a reconstruction of the crime scene in order to reopen the trial.

There were no further developments in the investigation into the August 1999 murder of sociologist Maria Ramirez Sanchez. Because Ramirez was an employee for the same organization as anthropologist Myrna Mack when the latter was killed for political reasons in 1990, media and human rights groups speculated that Ramirez's murder also was politically motivated. However, by the end of the year, prosecutors still had not established a motive or identified the possible killers; the investigation continued.

A heightened sense of public insecurity fueled by a deteriorating violent crime situation and a rash of threats against journalists, human rights workers, and judicial personnel, contributed to some allegations of social cleansing operations. During the first half of the year, a number of corpses were found in and around Guatemala City with signs of torture and violent death, including decapitation. Nearly all of the corpses were young males, many with gang-style tattoos, causing some human rights observers to suspect that the Government was conducting a social cleansing operation against gang members or other criminals. Others argued that the deaths were the product of an inter-gang turf war, possibly related to narcotics trafficking. In its 11th Human Rights Report, MINUGUA noted apparent social cleansing operations in Siquinala, Escuintla, in which armed groups kidnaped, tortured, or killed several individuals.

Prison authorities reported that on May 8, convicts Gumerindo Lopez Salazar and Elvin Arnulfo Sosa Flores escaped from prison and killed a guard in the process. The next day, Lopez's dead body was found in a river with signs of torture and mutilation. A preliminary autopsy by a forensic doctor from the judiciary concluded that the victim had been murdered—a conclusion that was discarded by the Public Ministry in a follow-up autopsy by its own doctor. In addition it was unclear whether Lopez's death might have preceded the time at which he was alleged to have escaped from prison, thereby raising doubts as to whether the escape might have been faked to camouflage an extrajudicial killing. In its 11th Human Rights Report, MINUGUA concluded that the Public Ministry did not thoroughly pursue the investigation in its initial stages.

In 1999 ODHAG and CALDH brought criminal charges against former leaders of the Guerrilla Army of the Poor (EGP) for the alleged killings of five former EGP guerrillas. The charges were initiated after relatives of EGP members who had disappeared in the early 1980's broke off negotiations with former EGP leaders aimed at determining the whereabouts of the remains. CALDH later halted the legal process after negotiations resumed. In August ODHAG reported that the case remained in the investigation phase, with an exhumation planned in Nicaragua to search for the bodies of the EGP members, based on information received from potential witnesses. According to ODHAG and CALDH, at year's end the case was suspended at the request of the victims' families.

The number of attempted lynchings and resultant deaths decreased significantly during the year, and the PNC deterred a number of lynchings. However, popular frustration with the inability of the Government to control crime and of the courts to assure speedy justice, as well as a tradition of extrajudicial repression of crime during years of military rule, led to continued lynchings and mob violence. Since MINUGUA began tracking lynchings in 1996, it has recorded a total of 337 cases. Of these, 75 cases have gone to trial, and 17 sentences have been handed down. Of these sentences, 7 were acquittals and 10 were guilty verdicts. By year's end, only one individual had actually begun to serve a prison sentence. MINUGUA reported 52 lynchings during the year (including 24 lynchings and 28 attempted lynchings), which resulted in 32 deaths and 83 persons injured. These figures are significantly lower than in 1999, when there were 105 lynchings (71 lynchings and 34 attempts), resulting in 48 deaths and 188 persons injured. There were fewer lynchings during the first half of the year; this was attributed by many observers primarily to the elections and the new Administration's early period in office, and in part to increased PNC deployment in rural areas and greater intervention by the PNC and

other authorities. While the police were successful in rescuing some victims of mob attacks, many observers agree that their efforts to deter or prevent lynchings would benefit greatly were the organization to establish more effective ties with indigenous communities (see Section 5). MINUGUA has noted that lynchings increasingly are planned and premeditated events. There continued to be some cases in which municipal officials or other local leaders were involved in lynching attempts. As in past years, mobs generally killed the victims for either property-related crimes or suspected membership in criminal gangs. The large majority of the attacks took place in rural areas in the mostly Mayan communities of the western and central highlands. Generally these were communities where, during the internal conflict, PAC's were accustomed to conducting populist summary hearings in the town square and then publicly executing alleged criminals or guerrillas.

On April 29, approximately 500 residents of Todos Santos Cuchumatán, Huehuetenango, stoned to death a Japanese tourist and burned to death his Guatemalan tour-bus driver. The incident apparently resulted from local fears based on rumors that a satanic group intended to hold a conclave in the area at that time. Authorities reacted quickly, eventually arresting a total of 13 suspects. On August 13, three of the suspects were accused formally of murder and assault; the investigation continued at year's end, with no date set for the trial.

On July 8, a crowd trapped eight men at a roadblock near Xalbaquej, Chichicastenango, Quiché. The victims were pulled from their vehicles, doused with gasoline, and burned to death because they were suspected of running guns and drugs. Authorities quickly identified and issued arrest warrants for 12 suspected ringleaders of the mob. Representatives of 30 surrounding communities threatened unspecified retaliation against the Government should any arrests be made in the case; at year's end, the PNC had not executed the warrants.

While the justice system has been slow to convict and imprison perpetrators of lynchings, the Government has demonstrated an increased willingness and ability to investigate and prosecute lynching offenders. There were numerous arrests and several convictions against lynch mob leaders during the year. On May 25, a court sentenced four men to 41 years and 8 months in prison each for a 1999 lynching of two victims in Chisec, Alta Verapaz. On May 10, three individuals received 30-year prison sentences and on June 2, one vigilante was sentenced to 50 years in prison and two others were given 33-year sentences for an October 1997 lynching in Comitancillo, San Marcos. On December 19, the Sentencing Tribunal of Solola condemned Diego Tzaj Cuc to 50 years in prison on two 25-year counts of murder for the January 1997 lynching in Nahuala of Cristobal Tambriz Ixtama and Diego Crisostomo Coti Gomez. The conviction came after the Solola district prosecutor appealed a June 14 decision which found Tzaj Cuc not guilty. The Ninth Appellate Court agreed with the prosecution and ordered a retrial at which Tzaj Cuc was convicted. Three other suspects in the case were awaiting trial at year's end: Francisco Boluz Lopez, Cruz Sojom Coti, Alonzo Tulul Guarchai and Francisco Traj Tay. At year's end, 10 men and 1 woman were scheduled to stand trial for the June 1997 lynching of 9 persons in Barreneche, Solola.

With the assistance of MINUGUA, the Government inaugurated a new anti-lynching campaign targeting those specific areas where lynchings have occurred. During the year, about 50 workshops had been held in rural towns, and these towns had not seen a recurrence of lynchings at year's end. In conjunction with the program's inauguration, CSJ President Jose Quesada Fernandez strongly denounced lynchings in a public statement and pledged support and protection for judicial personnel who are threatened by the local populace when lynching perpetrators are brought before the courts. In addition the National Tourism Institute (INGUAT) promotes a campaign that includes educational workshops to prevent lynchings. The PNC developed an antilynching operational plan that outlines procedures for officers to follow when confronted with lynchings. There were some criticisms that the PNC has yet to meaningfully deploy its operational plan or take advantage of officers who speak indigenous languages to build relationships with the communities that they police. Some observers also have criticized national antilynching campaigns as lacking sufficient focus or coordination with rural communities.

Despite improvements in the Government's response to deter lynchings and punish those responsible, growing public feelings of insecurity in the face of an ongoing wave of violent crime led many communities to form Local Security Councils—as provided for in the Law on the National Civilian Police—to protect themselves from criminal activity. These organizations were created primarily in Quiché department, with others believed to exist in Baja Verapaz, Solola, Huehuetenango, and San Marcos departments. At a November press conference, PNC director Rubio Lecsán Merida announced that the Councils would be implemented in 31 municipalities as a measure to extend the effectiveness of the police. In addition there were

unconfirmed reports that armed groups not covered by the Council statute have organized in numerous other communities. There also were unconfirmed reports that these unregulated, uncontrolled groups were responsible for killings, torture, and social cleansing operations. There continued to be concerns that former PAC members sometimes are involved in lynchings.

b. Disappearance.—There was one credible report of forced disappearance attributed to police forces.

On May 7, plainclothes PNC and SIC agents detained Adelso Carrillo Leiva, Rigoberto Pineda Agustin, and Mynor Pineda Agustin in San Benito, Peten. During interrogation for suspected participation in a kidnaping, the suspects were blindfolded and driven to a remote location, then threatened, beaten, and tortured. They returned to San Benito without Mynor Pineda, and his whereabouts were unknown as of June 30, suggesting a forced disappearance. A MINUGUA investigation indicated that PNC and SIC members tried to frame the three suspects for the kidnaping by falsifying evidence and documents. In addition the police apparently drove the suspects to the scene of the crime in order to claim that they caught the suspects in the act. The Public Ministry made no serious attempt to investigate or solve the crime. A writ of habeas corpus submitted on May 10 was answered by the judge in the San Benito Criminal Court, but did not produce Mynor Pineda or any information regarding his whereabouts.

There was no progress in the February 1998 disappearance of Francisco Gonzalez Vasquez, which was attributed to two Zacapa police officers. Despite an August 1998 arrest warrant for the arrest of Inspector Marvin Rolando Gomez Noguera on charges of “abuse of authority and threats,” he never has been arrested. The PNC transferred him to a position in Tecun Uman, San Marcos (on the other side of the country).

The PDH’s office reported 10 complaints of forced disappearance during the year, compared with 12 in 1999, and 18 in 1998. MINUGUA reported two complaints of forced disappearance during the year, compared with one in 1999 and one in 1998.

There was one credible report of a politically motivated disappearance. On April 7, University of San Carlos (USAC) Professor Mayra Gutierrez Hernandez disappeared. The human rights community and Gutierrez’s family and friends concluded that her disappearance was politically motivated, due to her social activism and political activities, which included social research into international adoptions, women’s rights, and a range of human rights causes. They also accused prosecutors of sabotaging the investigation by pursuing inaccurate theories that Gutierrez was an active member of a guerrilla organization and either left voluntarily or was kidnaped by her guerrilla comrades. These theories were repeated publicly by high-level Government officials, including then-Interior Minister Guillermo Ruiz Wong, thereby adding fuel to suspicions of a rightwing conspiracy. During its own investigation, MINUGUA found evidence that persons associated with military intelligence were spreading rumors and other misinformation to divert the official investigation, while persons close to Gutierrez inexplicably altered or removed valuable evidence and gave false information to Public Ministry prosecutors. Nevertheless, there were strong indications that the Public Ministry’s investigation was neither thorough nor objective. On November 28, the NGO Grupo de Apoyo Mutuo requested a special mandate from the CSJ to conduct an investigation into the case due to the lack of information that has been made available to date by the authorities. On December 7, the Supreme Court granted the PDH the status of special investigator in the case until February 2001.

Disappearances in high-profile cases from recent years remained unresolved at year’s end. For example, there was no progress in the investigation into the April 1999 disappearance of prominent indigenous leader and FDNG party member Carlos Coc Rax. Nor was there progress in the disappearance cases of Arnoldo Xi, an indigenous- and peasant-rights activist who reportedly was shot and abducted in March 1995; Lorenzo Quiej Pu, a human rights activist who disappeared in January 1994; and Juan Jose Cabrera (“Mincho”), the guerrilla commander reportedly captured by the EMP in 1996 while taking part in a kidnaping.

On August 10, ODHAG released its report on children missing since the armed conflict. The report stated that of the documented cases, 86 percent were of “forced disappearances” and the remaining 14 percent were attributable to diverse causes associated with the conflict, such as communities fleeing attack. Of the documented cases of forced disappearances, the military was responsible for 92 percent of the cases; PAC’s were responsible for 3 percent; guerrilla forces were responsible for 2 percent; and the remaining 3 percent could not be attributed to anyone. In 68 percent of the forced disappearances, boys and girls were taken directly to a military post of one kind or another. Approximately 93 percent of the victims were Mayan children, the majority of whom were between 1 and 4 years old.

The fate of guerrilla leader Efraim Bamaca Velasquez, who disappeared following a March 1992 clash between army and URNG forces, remains unknown. On December 5, the Inter-American Court ruled that the Government was guilty of violating Bamaca's personal liberty and integrity, and his rights to life, to juridical personality, and to legal protection. It further found that in the case, the Government violated international human rights conventions, specifically the Convention against Torture. The Court ordered the Government to investigate, publicly identify and try those responsible, and award damages for its violations.

There was no apparent progress in the 1998 criminal case filed by Adriana Portillo Bartow for the 1981 abduction and disappearance of her two children and four other members of her family. The lawsuit named former Interior Minister Donald Alvarez Ruiz, former National Police Director German Chupina Barahona, and Pedro Garcia Arredondo, the former chief of Commando Seis (a plainclothes police urban counterinsurgency force) as defendants. Garcia Arredondo was reelected as mayor of Nueva Santa Rosa in the November 1999 elections and therefore has immunity from prosecution.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution provides for the integrity and security of the person and prohibits physical or psychological torture of prisoners; however, there were credible reports of torture, abuse, and other mistreatment by members of the PNC, although at decreased levels from the previous year. These complaints typically involved the use of excessive force during arrests, interrogations, or other police operations. SIC detectives continued to torture and beat detainees during interrogation to obtain forced confessions. The Government and the PNC showed increased willingness and ability to investigate, prosecute, or otherwise punish officers who committed abuses. The PNC transferred cases of alleged torture to the Public Ministry. There was a significant increase in the number of murder victims that demonstrated signs of torture or cruel treatment, in such diverse locations as the Peten, the border with Honduras, Escuintla, and Guatemala City, which led some observers to suspect social cleansing operations (see Section 1.a.).

The PDH's office reported no complaints of torture during the year, compared with four in 1999 and two in 1998. In its 11th Report on Human Rights, MINUGUA investigated 13 complaints of torture, of which 12 were confirmed. The majority of these cases involved abuse or mistreatment of suspects and detainees by PNC officers or SIC detectives. The PNC sometimes punished the use of excessive or illegal force by officers, but more often offenders merely were transferred to a different location. In several cases, there was credible evidence that PNC officers and their superiors altered documentation, falsified evidence, bribed and intimidated victims and witnesses, or otherwise obstructed the investigation and prosecution of police misconduct. Some PNC officers accused of crimes evaded punishment by fleeing justice. On November 25, the PNC director said that the organization has "zero tolerance for illegal acts or for human rights abuses on the part of police officers." Through the end of October, 215 PNC officers had been dismissed from duty, while another 537 officers were under investigation in the courts.

On February 3, PNC officers in Nueva Santa Rosa, Santa Rosa, arrested Juan Carlos Zepeda Herrera for public drunkenness. Several neighbors witnessed the arrest, but when Zepeda's father went to the police station to inquire about his son, a senior officer denied knowledge of the arrest. The next day, Zepeda was found in the bottom of a 15-meter deep ravine with several broken bones and other serious injuries. The ORP and Public Ministry concluded that the arresting officers were responsible, but little progress had been made on the case against them by the end of the year.

On February 9, Augusto Marroquin Carreto was taken from his cell in the Quetzaltenango detention center by SIC detectives and interrogated about his alleged involvement in the death of another prisoner. The detectives beat and tortured him until he confessed. Several high ranking PNC and SIC officers attended the interrogation. On February 5, SIC officers from Quetzaltenango tortured Pablo Albani Edelman Bethancourt and Alex Guillermo Reyes Monterroso into confessing their membership in a gang of car thieves by asphyxiating them with rubber hoods and beating them.

On February 13, in Jocotenango, Sacatepequez, Carlos Samayoa Olayo was arrested inside his home and beaten severely by PNC officers who did not have an arrest warrant. He was taken to jail despite signs that his health was deteriorating quickly. Eventually, he was taken to a hospital, where part of his intestine was removed surgically due to injuries he sustained from blows to the stomach. PNC officers falsified his arrest documentation to justify their use of force and hide the fact that they had arrested him illegally. A judge freed Samayoa and the PNC initiated

disciplinary proceedings against the responsible officers, but the Public Ministry's investigation failed to produce criminal charges by year's end.

Casa Alianza reported that although the number of incidents of abuse of street children roughly was equal to 1999 levels, relatively few incidents were committed by members of the security forces. Most acts of violence against street children were committed by individuals, by private security guards, or in gang- and drug-related violence among street children. Casa Alianza reported only one case of abuse of street children by PNC officers, in which several officers were alleged to have threatened and intimidated five street children. Prosecutions and convictions for crimes against street children continued to be very rare.

There were no reports that police used excessive force in evictions of landless peasants occupying farms in attempts to gain land during the year. Because of violent confrontations in the past, the Government continued its policy of securing an eviction order from a court, informing the occupiers of the coming eviction, and sending in a lightly armed police contingent to end the occupation by using dialog and verbal persuasion. The Ministry of Government carried out numerous evictions without incident during the year using this policy. Despite these improved tactics, on March 7, police and squatters clashed during an eviction near Villa Nueva, when police used tear gas to subdue rock-throwing squatters. In a similar operation, police also clashed with squatters in the Peten on December 11. Some 21 persons were injured as violence broke out during the eviction of about 300 squatter families. Police used tear gas to disperse the crowd. The public continued to experience difficulty in demonstrating or securing legal title to land, and some progress was made toward genuine land reform. On April 27, the parastatal Fontierras signed a \$31 million loan agreement with the World Bank to provide property titles to landowners in the Peten department. Cooperation between the parastatals Fontierras and Contierra brought together the related functions of land purchases with that of resolving land conflicts, which are at the root of a great deal of rural violence and lynchings (see Section 1.a.). The alliance resolved 89 such conflicts during the year. The issuing of land titles by Fontierras has affected approximately 5,400 families; the estimated demand for these services is estimated at 55,000 families.

Corruption continued to be a problem, and there were credible allegations of involvement by individual police officers in criminal activity; contrary to the previous year, there were no credible allegations of police involvement in kidnappings. The authorities arrested some police officers and continued to take action against officers found to have engaged in illegal activities, referring some violations to the criminal justice system rather than simply imposing administrative punishments. However, some observers claimed that rather than discipline its officers the PNC often just transferred them to a different part of the country. Transfers are a common practice and are used to avoid personal problems, corruption, and questions of mistreatment of detainees. Impunity for police who commit abuses remained a serious problem.

All PNC members were required to meet minimum education requirements and pass an entrance examination. Former PN staff who wished to integrate into the PNC must complete successfully a 3-month retraining course. According to MINUGUA, there are 1,200 former PN employees who have yet to receive training. There also were screening procedures to detect suspected human rights violators and officers involved in criminal activities. New recruits had to complete a 6-month training course before entering on duty. The training course, developed with the assistance of MINUGUA, foreign countries, and international organizations, includes extensive human rights components. However, some observers claimed that the retraining course was not sufficiently rigorous and that relatively few members of the PN were screened out during retraining, allowing the incorporation of some poorly qualified PN members into the ranks of the new PNC.

Pursuant to the Peace Accords, former members of the military were eligible to apply for positions in the PNC but were required to apply like other civilians and complete the 6-month training course required of all civilian applicants. However, the Government incorporated some former members of the military and the former PMA into the ranks of the PNC upon the completion of only the shorter course intended for current members of the PN. A total number of 10,144 officers from prior security forces have taken the retraining course since its inception. The former PMA members were not subjected to a competitive selection process but were screened carefully before they were allowed to enter the program. Although government plans called for 20,000 PNC members to be on duty around the country by the end of 1999, resource constraints limited that number to about 16,700 by year's end. According to a June MINUGUA report, PNC officers covered 307 of 331 municipalities. Approximately 39 percent were new recruits, and 61 percent were inducted from existing organizations. Approximately 10 percent of the force is female. In August a class of 999 new recruits graduated from the Police Academy.

The PNC's Office of Professional Responsibility (ORP) handles internal investigations of misconduct by police officers. Despite greater numbers of police officers on duty throughout the country, and less public apprehension about filing complaints against the police, the total number of such complaints remained roughly the same as the previous year. There were signs that the ORP increased its independence, professionalism, and effectiveness, despite limited experience and resources. However, there were isolated cases in which ORP investigators appeared to participate in coverups of police misconduct. The ORP received a total of 1,581 complaints during the year, compared to 1,517 complaints for 1999. There were 222 complaints of abuse of authority, 104 of robbery, 43 of homicide, 141 of corruption, 108 of improper conduct, 107 of threats, and 72 of illegal detention. In cases where sufficient evidence suggested that criminal acts were committed, ORP investigators forwarded them to the Public Ministry for further investigation and prosecution. Between January and the end of October, the PNC fired 215 officers. By year's end, charges were brought against a total of 594 officers. At the end of the year, the ORP had closed 870 cases, compared to 153 cases in 1999. The investigations found 345 officers culpable and exonerated 525 officers. Most observers still considered the PNC to be a significant improvement over the PN.

In 1998 the PNC accepted some 60 police candidates from indigenous communities in the Ixil region—approximately 30 of whom graduated on their first attempt—to ensure that PNC personnel in those communities would be proficient in the local language and able to operate effectively in those communities. According to MINUGUA, approximately 7 percent of PNC officers speak an indigenous language. However, it appears that a very high percentage of officers that do speak indigenous languages work outside of the geographic area of their particular linguistic competency.

No active members of the military serve in the police command structure, but on March 21, Congress enacted a law enabling the Government to employ the army to continue to support the police temporarily in response to an ongoing nationwide wave of violent crime. In 1998 and 1999, President Arzu had ordered the army to support the police temporarily. While these measures were popular politically, given the public's preoccupation with crime and security, they left open the possibility of renewed military involvement in internal security functions, a role prohibited by the Peace Accords. Under the new law, military personnel are not subordinated clearly to police control during joint patrols or operations.

There has been only modest progress in the case of Sister Dianna Ortiz, who was kidnapped, tortured, and sexually abused by a group of armed men in November 1989. The prosecutor on the case, Braulio Guzman, renewed his efforts to finalize the investigative phase of the trial despite logistical constraints. The court is empowered to close the case for lack of evidence should nothing further be submitted.

Prison conditions remained harsh but generally not life threatening. There was at least one death in the prison system that caused observers to suspect social cleansing by government agents (see Section 1.a.). The prison system continued to suffer from a serious lack of resources, particularly in the areas of prison security and medical facilities. In November the Government reported that prison capacity nationwide was 6,170 persons and that there were approximately 6,700 inmates. The majority of the prisoners are not serving prison terms but are being held in pretrial detention. Pretrial detainees often are separated from convicted criminals. Many are released either on good behavior or because they never are sentenced. Some institutions were overcrowded; for example, in August the Preventive Detention Center for Men in Guatemala City was approximately 75 percent over its designed capacity. In February a project to improve prison infrastructure began, involving improvements to fences and walls to prevent further escapes and installation of better water, electricity, sanitation, and emergency systems. In the spring, a new maximum security facility opened. Prisoners continued to complain of inadequate food. Corruption—especially drug-related—was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest. According to press reports, in December approximately 1,100 prisoners temporarily took control of the interior of the main detention facility in Guatemala City, calling for better living conditions and access to visitors. The frequency of jailbreaks continued to be a matter of serious public concern, although the number of successful escapes appears to have declined. Several escaped convicts eventually were recaptured. The military continued to provide perimeter security for various prisons, as it has done since 1998.

The 433 female prisoners in the penal system generally are held in facilities separate from men. Immigration detention facilities do not always keep female detainees separate from the male population. In August one woman claimed that she had been

raped while in detention; however, she declined to cooperate with authorities willing to investigate. The Government permitted access to prisons by family members.

Minor children are held in separate detention facilities. According to a December MINUGUA report, there are only five juvenile delinquent facilities in the country; approximately 39 percent of the children housed in these facilities have sought protection and have committed no offense.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law prohibits arbitrary arrest and detention; however, there were frequent credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers frequently fail to satisfy legal requisites. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing the case before a judge. Once a suspect has been arraigned, the prosecutor generally has 3 months to complete his investigation and file the case in court. The law also provides for access to lawyers and bail.

There are no comprehensive, reliable data on the number of arbitrary detentions, although most accounts agree that the security forces routinely ignored writs of habeas corpus in cases of illegal detention. The PDH reported 46 complaints of illegal detention during the year, compared with 20 in 1999 and 18 in 1998. From October 1999 through June, MINUGUA investigated some 31 cases of illegal or arbitrary detention, and confirmed 23. According to a December MINUGUA report, approximately 95 percent of arrested children were arrested by authorities without a warrant.

Government figures indicated that approximately 61 percent of those incarcerated are awaiting trial. The law sets a limit of 3 months for pretrial detention; however, longer detentions still occurred routinely. Prisoners often were detained past their legal trial or release dates. Prisoners sometimes were not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems.

The Constitution prohibits exile, and it is not practiced.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judicial system often fails to provide fair trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The courts' response to human rights violations, as well as to general criminal activity, has been inadequate, although during the year the Government achieved convictions in a few important human rights cases from previous years. However, many high-profile human rights cases remained pending in the courts for long periods as defense attorneys abused the system by employing numerous dilatory appeals and motions, for which they rarely were sanctioned. Courts sometimes took months to resolve even patently frivolous appeals. There were numerous credible allegations of corruption, manipulation, and intimidation in the judiciary. There also were credible allegations of parallel investigations by military intelligence in the Bishop Gerardi and Ordonez Porta murder cases—that interfered with the justice system's efforts to investigate or prosecute those responsible (see Section 1.a.).

Judges and prosecutors continued to receive threats aimed at influencing current decisions or as reprisals for past decisions. Death threats and intimidation of the judiciary were extremely common in most cases involving human rights violations, particularly where the defendants were current or former members of the military, military commissioners, or PAC's; witnesses often are too intimidated to testify. For example, the lead prosecutor and his staff in the Bishop Gerardi murder investigation continued to report wiretapping, surveillance, and frequent death threats. In addition at least two judges and a judicial staff member in the Gerardi case reported threats and intimidation, including surveillance (see Section 1.a.). With relatively few exceptions, plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation, and surveillance. A March report at the U.N. Human Rights Commission noted that many judges and prosecutors are denied health insurance because the threats and intimidation that they receive makes their jobs too dangerous. The Government allocated more resources to the judiciary's physical security, including providing protective details for the judge and at least some members of the prosecution team in the Gerardi case and witnesses in the SITRABI and Dos Erres cases (see Sections 1.a. and 6.a.). The Government also devoted more resources to providing for witness protection abroad for key witnesses in the Gerardi and Dos Erres cases (see Section 1.a.). According to a November press article, the Public Ministry spent approxi-

mately \$800,000 (6 million quetzals) on its witness protection program, and was reviewing the criteria according to which witnesses are admitted into the program.

The judiciary is composed of the Supreme Court of Justice (CSJ), appellate courts, trial courts, and courts of first instance (which function like grand juries). There also are courts of special jurisdiction such as labor courts and family courts; these also are under the jurisdiction of the CSJ. The Constitutional Court is independent of the rest of the judiciary. The Constitution requires that Congress elect all CSJ and appellate court magistrates every 5 years from lists prepared by panels composed of active magistrates, representatives of the bar association, law school deans, and university rectors. In October 1999, new CSJ and appellate magistrates were chosen in a selection process that was more participatory and transparent than ever before, despite some accusations that political parties were attempting to fill the courts with their sympathizers prior to the November 1999 general elections. There are several community courts in indigenous rural areas (see Section 5). During the year, 18 judges whose 5-year contracts were not renewed collectively filed a petition before the Constitutional Court, which still was pending at year's end.

The 1994 Criminal Procedures Code provides for the presumption of innocence, the right to be present at trial, the right to counsel, plea bargaining, and the possibility of release on bail. Trials are public, allowing victims, family members, and human rights groups to observe the process. Verdicts are rendered by three-judge panels. The Criminal Procedures Code introduced oral trials; however, only those attorneys who have graduated since that time have had real training in oral trials. The code also provides for language interpretation for those who require it; however, in practice this provision rarely is honored due to budgetary and other constraints (see Section 5). During the year, some new interpreters were hired, and the Public Defender's Office began hiring attorneys who speak indigenous languages and assigning them to areas where they can use their language skills to defend non-Spanish-speaking defendants. The Public Ministry, which is independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as coplaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often lead to excessively long pretrial detention (see Section 1.d.). Courts showed little willingness to exercise discretion in dismissing frivolous or patently invalid motions. As a consequence, parties continued to use such motions as delaying tactics, frequently holding up trials for several months or even years.

Inefficiency and corruption in the courts, Public Ministry, and police continued to impede the proper functioning of the judicial system and undermine the right to due process. The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. According to government statistics, through August 1999 (the last period for which figures were available), the Supreme Court imposed 1,215 sanctions against members of the judiciary for offenses ranging from simple impropriety to illegal conduct. Of those sanctions against judges, 1,159 were findings of impropriety, 66 were warnings, 9 judges were fired, and 1 was suspended. Magistrates received 13 findings of impropriety. The Public Ministry has been hampered in its efforts to investigate crimes and prosecute offenders by inadequate training and equipment, excessive caseloads, and insufficient numbers of investigators. Prosecutors remained susceptible to intimidation and corruption. In addition the Government's failure to clearly delineate responsibility for investigating crimes to either the PNC or the Public Ministry led to continued infighting and competition between these organizations, as well as the duplication of investigative resources. It was difficult to attract qualified personnel to the courts because of the low salaries offered, but a raise in the salaries of judges attracted greater numbers of higher caliber candidates.

On December 2, 1999, the new law on legal careers took effect, fulfilling a major objective of the Peace Accords. That law establishes a system to regulate the income, terms of office, promotion, training, disciplinary measures, and other activities of judges and magistrates, as well as support their professionalism and independence. The new law was designed to speed up trials and reduce corruption by recognizing and protecting competent judges while creating mechanisms to remove incompetent or corrupt ones. A Judicial Career Advisory Committee and a Disciplinary Committee were established, as called for by the new law, and a permanent training staff was hired for what is now called the Institutional Training Unit of the Judicial Career Council. It provides a mandatory 6-month training course for all newly appointed judges. The Council is responsible for selecting judges as well as disciplining them in accordance with the law's criteria for sanctions. The 1999 law also provided for a Peer Review Council, which has been in operation since mid-year. The panel reviews accusations brought by the public, litigants, or other sources, investigates the complaints, and takes administrative action where appro-

priate. The panel had reviewed dozens of cases by year's end, resulting in sanctions ranging from letters of reprimand to firing.

In cooperation with foreign donors, the Government continued its efforts to reform the judicial system, and there were some significant improvements throughout the year. For example, on July 18, a new Public Ministry Case Intake Unit was inaugurated in Guatemala City, which reduced the average waiting time for filing a complaint from several hours to approximately 10 minutes. A new Public Ministry Victim's Unit was inaugurated with doctors and nurses on call 24 hours a day to assist rape and other crime victims and to gather evidence for their cases.

One of the most successful reform efforts has been the creation of "justice centers," which bring together judges, public defenders, prosecutors, private law practitioners, police, municipal representatives, military officers, and civil society in a team approach to dispute resolution and problem solving. The centers have installed modernized docket and case filing systems in the courts, thereby increasing efficiency and public service while significantly decreasing corruption in the disappearance of case files. Centers are located in Zacapa, Quetzaltenango, Escuintla, Nebaj (Quiche), the Peten, Santa Eulalia (Huehuetenango), and Santa Cruz del Quiche (which opened in April). Additional centers in Huehuetenango, Coban, Chiquimula, Puerto Barrios, San Marcos, and Solola are scheduled to open by mid-2001. The Supreme Court extended the administrative model of the justice centers to include the criminal courts in the capital by creating a new Clerk of Court office, which has streamlined the processing of cases, increased transparency, and improved customer service. Under the old system, courthouses resembled marketplaces in which individuals could bribe a court official to "lose" their case file—a system that resulted in near-complete impunity for those with sufficient money. Individuals also could bribe the court to lose the file of a person in pretrial detention, thus assuring that that person would remain in jail indefinitely. With the implementation of the centralized, computerized case tracking system, the number of missing cases has dropped from approximately 1,000 per year to 3 cases since the new system was introduced. In all three of the misplaced cases, the individuals named in the complaints have been identified and are under investigation. Prospective judges and assistant judges attended special courses at the School of Judicial Studies, from which applicants were selected to fill vacancies in the judiciary. Since 1994 the Government has expanded the judiciary's presence throughout the country; at year's end, there were judges in more than 300 of the 331 municipalities around the country.

Despite some progress, much remains to be done to reform the judiciary and establish effective rule of law, as mandated by the Peace Accords. Many of the structural and procedural weaknesses of the judiciary would have been addressed by the proposed constitutional reforms that were defeated in a national referendum in May 1999. The National Commission for the Strengthening of Justice, which was created following the Peace Accords, increasingly is active; in July it announced its strategic plan, and subsequently created a number of subcommittees to work on implementation. The Commission met weekly during the year to consider reforms to the penal code in order to assist justices of the peace in resolving local disputes.

Beginning in August, residents of small towns in Quiche began holding customary law trials, allegedly based on Mayan indigenous law, in which community leaders meted out corporal punishment rather than lynch suspected wrongdoers (see Section 1.a.). For example, on August 17, leaders of several small communities near Zacualpa, Quiche, rounded up a crowd of 350 residents and summoned representatives from the PNC, Public Ministry, and the Human Rights Ombudsman's office to serve as witnesses. They then held a customary law trial and sentenced 2 brothers suspected of thievery to 25 lashes with a whip, shaved their heads, and made them promise never again to do anything to harm the community. The two men reportedly accepted responsibility for their crimes and their father was designated to administer the whippings. (One of the worst mass lynchings in 1999, in which five suspected gang members were killed by a mob that also took several PNC officers captive to prevent them from interfering in the lynching, also occurred in Zacualpa.) Government and law enforcement officials quickly criticized the common law trials as illegal and emphasized the need for all suspected criminals to be processed through the judicial system.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for the inviolability of home, correspondence, and private documents; however, allegations persist that the authorities sometimes disregard these provisions. Elements of the security forces, specifically the EMP, reportedly continued to monitor private communications. The prosecutor and his staff in the Bishop Gerardi murder investigation continued to report wiretapping and surveillance, and

other human rights organizations reported telephone anomalies that suggested wire-tapping (see Section 1.a.).

On May 7, Edgar Gutierrez, head of the President's Secretariat for Strategic Analysis, announced the existence of a computer database containing names, personal information, and cryptic codes about more than 650,000 persons. The database appeared to have been compiled by military intelligence several years earlier and a copy remained on the SAE computer system. The SAE provided a copy to the Human Rights Ombudsman, who offered access to the database as a public service for those who wished to learn if their names appeared on the list.

The military continued to honor the 1994 presidential order to suspend all conscription, including forced recruitment, as the armed forces found it relatively easy to recruit young male volunteers from impoverished areas using pay and education incentives.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of expression, and the Government generally respected this right in practice. There were numerous credible reports that members of the press were targets of anonymous threats and intimidation; and there were two credible allegations of government-connected censorship. There were no reports of self-censorship.

In addition to regular and open criticism of government policies, the print media publicized communiques from human rights organizations, unions, and groups opposed to the Government or its policies. The press criticized the military and other powerful sectors. The press also regularly published stories on reputed drug traffickers, official corruption, and clandestine intelligence networks.

The Government prepared public information programs, which the radio and television stations were required to broadcast. The Government owns the rights to seven national television channels but used none of them for broadcasts.

All four of the country's national television stations are owned by a Mexican citizen, Angel Gonzalez, who plays a significant role in politics and provides free broadcast time to Guatemalan Republican Front politicians whom he supports. These channels are criticized strongly as being monopolistic, progovernment, and interested in broadcasting only uncontroversial news. In exchange for giving extensive free time to the Guatemalan Republican Front and denying access to then-ruling National Advancement Party, Gonzalez reportedly insisted that his brother-in-law, Luis Rabbe, be the FRG's candidate for mayor of Guatemala City. Despite the FRG's electoral sweep of most major offices, Rabbe was defeated. Portillo then named Rabbe as his Minister of Communications. By year's end, both Rabbe and the Communications Ministry were the subject of numerous corruption charges.

In February journalist Jose Eduardo Zarco, host of the popular television political news show "Evening Issues," claimed that his show had been forced off the air due to political pressure from the newly inaugurated Portillo Government. Specifically Zarco alleged that Communications Minister Rabbe pressured Angel Gonzalez to close the show because it was too critical of the Government. Gonzalez owns the television station that broadcast Zarco's show as well as several other stations, despite a law forbidding non-Guatemalans to own radio or television stations and laws to prevent monopoly control. Human Rights Ombudsman Julio Arango investigated and concluded that the Government wrongfully had forced the show off the air. Arango called for legislation to eliminate the media monopoly held by Gonzalez. The Government denied responsibility for the show's closure and invited Organization for American States (OAS) Special Rapporteur on the Freedom of Expression Santiago Canton to conduct an investigation into the incident.

On April 12, Canton arrived for a 3-day visit, after which he recommended a "serious investigation of the possible existence of a real monopoly on television stations open to public access," in reference to the control by a single individual of all of the private stations in the country. He also recommended that the Government implement clear regulations to prevent conflicts of interest between government officials and the media; suspend the auctions on radio frequencies until the Peace Accord regarding the rights of indigenous people is implemented; change the regulations governing television and radio advertising to ensure equal access; include the recommendations of civil society in legislation on information access that President Portillo promised to propose; and launch a campaign to promote and provide training in freedom of expression, including the passage of a law to protect the freedom of information. Based in part on Canton's recommendations, as well as a similar recommendation from the Historical Clarification Commission, on August 16, the Government introduced legislation in Congress to create a Freedom of Information Law. The bill would establish an ombudsman's office to defend the right to freedom of information, including the ability to petition the Government for personal records

and other information. The bill languished in the FRG-dominated Congress at year's end.

In September popular radio talk show host Marielos Monzon was fired from Radio Sonora, allegedly for returning 3 days late from a trip. Monzon credibly alleged that she was fired because she earlier had rejected a demand from station management not to interview certain "leftwing" members of the Portillo Administration, nor opposition politicians.

Despite its Peace Accords pledge to enact reforms to the Radio Communications Law to make radio frequencies available for indigenous communities, the Government instead passed a law that created a public auction system for radio frequencies. In August when eight local radio operators were unable to purchase the frequencies that they already were using due to the extremely high cost, the Superintendent of Telecommunications fined them \$10,000 (about 78,000 quetzals) for broadcasting without a license. MINUGUA concluded that the high cost of the public auction system was an effective barrier to rural indigenous access to radio frequencies.

On April 27, photojournalist Roberto Martinez of the newspaper *Prensa Libre* was killed while covering street demonstrations provoked by bus fare increases. Martinez allegedly was shot by private security guards, who opened fire on a group of demonstrators who were accompanied by a number of professional journalists carrying their photographic equipment. Two guards were remanded for trial, and remained in police custody at year's end (see Section 2.b.).

In May and thereafter, there were significant increases in the number of threats and other acts of intimidation directed against journalists, which coincided with an increase in threats against judicial personnel and human rights workers. Various reporters, columnists, and editors from several daily newspapers complained of telephone threats and other acts of intimidation. Personnel from one newspaper, *El Periodico*, began receiving numerous threats the day before publishing a series of articles on an alleged clandestine intelligence network within the military. Some reporters claimed that they were followed by vehicles with tinted windows and no license plates. Others alleged that they were the victims of telephone surveillance. The sudden and significant increase in the number of threats in April and May led many observers to believe that there was an organized campaign to intimidate the press by conservative elements affiliated with the military.

On September 30, 1999, the Chiquimula sentencing court found Jose Gabriel Lopez Leon and Neftaly Lopez Leon guilty of the 1997 murder of journalist Jorge Luis Marroquin Martinez; the court sentenced each of them to 30 years in prison. The same court found that the prosecutors in the case had presented inadmissible evidence against the suspected intellectual author of the crime, former Jocoton Mayor Manuel Ohajaca. The Public Ministry did not bring any new evidence against Ohajaca.

The Constitution provides for academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government respects this right in practice. Peaceful demonstrations were common. The police acted with restraint, and the authorities sometimes negotiated the peaceful departure of the demonstrators. On April 24, a demonstration against an increase in public transportation rates turned violent, as rioters looted, burned buses, and destroyed property in downtown Guatemala City. On April 25, the police responded with tear gas and riot control measures, and arrested over 50 alleged participants. However, the violence continued on April 27. Many citizens criticized the police for not responding earlier and with more force to stop the violence. During the riot, private security guards killed three persons, including a journalist, and wounded several others (see Section 2.a.). On October 10, mass protests over land reform occurred, generally without incident. However, 1 demonstrator was killed by an unidentified assailant, and 10 protesters were injured in a clash with police in downtown Guatemala City.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government did not interfere with political associations. However, organizations must obtain legal status, a formerly cumbersome and expensive procedure that was streamlined considerably in 1998. The URNG and several NGO's had alleged that this law particularly disadvantaged organizations representing marginalized social sectors, including indigenous groups.

c. Freedom of Religion.—The Constitution provides for religious freedom, and the Government generally respects this right in practice. There is no state religion; however, the Constitution recognizes explicitly the separate legal personality of the Catholic Church. Members of a religion need not register simply in order to worship together. However, the Government requires religious congregations (other than the

Catholic Church), as well as other nonreligious associations and NGO's, to register as legal entities in order to be able to transact business.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for these rights, and the Government respects them in practice.

The Director General of Immigration acknowledged publicly that extortion and mistreatment of persons attempting to cross illegally into the country are subject to extortion and mistreatment by government officials. Many observers believe that this mistreatment is underreported because illegal immigrants almost never have the capacity to lodge formal complaints, either with the authorities or against them; and there is little legal assistance available to such immigrants.

The Government grants refugee status and asylum in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

Voluntary repatriation of Guatemalan refugees who had migrated to Mexico during the internal conflict concluded in 1999, bringing the total to over 40,000 since 1993. Guatemalans who still remain in Mexico do so by choice. Forty former refugee families returned voluntarily to Mexico in August, claiming that the Government was not providing for their fundamental needs. The Government of Mexico reportedly accepted their return. Over 1,500 other individuals indicated their intention to return to Mexico if the Government would not resolve their land issues and improve living conditions.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government by peaceful and democratic means, through secret ballot and universal suffrage for those 18 years of age and older. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been nine free elections. International observers concluded that both the November 1999 general elections and the December 1999 runoff presidential election were free and fair. During and after the November round of elections, political parties lodged numerous complaints of fraud and misconduct against each other, the vast majority of which were unaccompanied by evidence and appeared to be partisan attempts to disqualify opponents or annul election results. Due largely to unexpectedly high voter turnout, the Supreme Electoral Tribunal (TSE) was slow to report the November vote count. Public uncertainty over the delayed count contributed to violence and disturbances in a number of municipalities with highly contested local races. Lack of transportation, onerous voter registration requirements, and elections scheduled during the harvest season prevent many poor, indigenous, and rural persons from voting.

Voters elect the 113-member, unicameral Congress every 4 years using a system of proportional representation based on population, with deputies elected both from districts and from a nationwide list. The Congress had 91 deputies from districts and 22 from the national list. The 1999 elections involved 13 political parties, including two 2-party coalitions. Four parties and both coalitions won seats in the legislature, led by the FRG with a 63-seat majority, followed by the PAN with 21 seats, the Bancada Unionista with 16 seats, and the New Nation Alliance coalition, which includes the Guatemalan National Revolutionary Unity (URNG) party, with 9 seats. Other small parties hold a total of 4 seats. Voter participation in the 1999 elections was at a 13-year high. Congress can and does act independently of the executive, but fragmentation along party lines and a weak support and staff structure result in a legislature that is relatively ineffective. Nevertheless, Congress increased its relative power and independence under the leadership of president of Congress Efraín Ríos Montt, a former de facto President and current leader of the ruling party, the FRG.

The former Guatemalan National Revolutionary Unity guerrillas met all legal requirements for qualification as a political party and competed in the 1999 general elections, winning nine seats in Congress as part of a coalition with a much smaller party.

On December 26, 1999, voters elected FRG presidential candidate Alfonso Portillo in a runoff election that international observers characterized as free and fair. He took office on January 14.

The new Government's efforts to implement the Peace Accords were limited as it struggled to organize itself and set policy priorities throughout the year. By year's

end, the Portillo Administration established a new timetable for the implementation of the many elements of the Accords which had yet to be accomplished.

In May 1999, in a national referendum, voters rejected the entire package of 50 constitutional reforms approved by Congress in 1998, dealing a significant blow to the peace process. Only 20 percent of the electorate voted. The defeated amendments included provisions to recognize, respect, and protect indigenous languages and traditional customs, professionalize the judicial service, give civilian courts jurisdiction over military personnel, and define the army as an apolitical organization. While ordinary laws could be enacted to accomplish many of the reforms, the constitutional reforms nonetheless held great symbolic value for the peace process.

There are no legal impediments to women's participation in politics and government, but women are underrepresented in politics. The major parties nominated and elected fewer female candidates for Congress in the 1999 elections; however, women's participation as voters was the highest ever, despite social traditions that inhibit voting by women. Nevertheless, women held some prominent political positions. Voters elected 8 women to Congress in November, and that number was increased to 13 as substitutes took the seats of members of Congress recruited to serve in the Executive Branch. One woman, Zury Rios de Lopez, is the Second Vice President of Congress. Women hold two seats on the Supreme Court and one on the Constitutional Court. There was one female minister in the Portillo Cabinet—the Minister for Culture and Sports.

The Constitution provides for equal rights for indigenous people. Some attained high positions as judges and government officials, including 14 members of the new Congress (15 were elected, but Aura Marina Otzoy Colaj, an indigenous woman, later was appointed Ambassador to Norway). There were 6 indigenous members in the 80-member Congress before the 1999 elections. Indigenous people still are underrepresented significantly in politics due to limited educational opportunity and pervasive discrimination (see Section 5). There are two indigenous members in the Cabinet of the Portillo Government.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permits local human rights groups to operate without restriction. Numerous domestic and international groups investigate and report freely on human rights issues. Senior government officials also met with numerous foreign government officials and international human rights monitors. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

During the year, most NGO's credibly reported receiving threats or being intimidated by unidentified persons. From April to June there was a very significant increase in the number of threats against human rights workers, as well as journalists and judicial personnel, in comparison to 1999 levels (see Sections 1.e. and 2.a.). Most of these acts of intimidation involved anonymous telephonic threats, surveillance, and unknown individuals and cars following human rights workers or watching their workplaces or residences. In addition at least two murders and one disappearance allegedly were committed for political reasons, possibly related to the victims' human rights work. These cases included the killing of two government environmental workers in Izabal (see Section 1.a.), and the disappearance of Professor Mayra Gutierrez (see Section 1.b.). ODHAG personnel reported frequent and persistent death threats, surveillance, and other acts of intimidation, as did the prosecutors, two judges, and other judicial personnel working on the Bishop Gerardi murder case (see Section 1.a.). 1992 Nobel Peace Prize laureate Rigoberta Menchu and her staff reported numerous threats in connection with the genocide lawsuit that they filed in 1999 in a Spanish court against former de facto President Efraín Ríos Montt and seven other former military or government officials. There were other incidents during the year of possible political intimidation of human rights workers; however, the reports could not be verified.

In addition to the increased number of threats, there was a series of break-ins or robberies in human rights NGO offices that some observers believed was part of an overall campaign to intimidate civil society. In March unknown persons broke into the offices of former presidential candidate and leftist leader Alvaro Colom, took files and computer information, and wrecked the office. They also defecated and urinated on tables and in hallways and scribbled political graffiti and insults on chalkboards. In May the National Coordinator of Widows of Guatemala, an NGO, reported what appeared to be an ordinary robbery of its daycare center in Santa Cruz del Quiché, which was followed a month later by a break-in at its Guatemala City office. On June 14, robbers stole three computers from a branch office of CALDH after drugging the night watchman. On September 4, four armed men entered the

offices of FAMDEGUA around noon and demanded keys to vehicles and money. They stole a FAMDEGUA vehicle, four computers, two laptops, a television, and other electronic equipment. The computers contained sensitive information about human rights complaints, statistics, and information regarding specific human rights cases, such as the Dos Erres massacre (see Section 1.a.). On October 26, an armed group assaulted the employees and robbed the offices of a group called Women Let's Advance. The assailants raped one employee, and stole several computers and other office equipment as well as the money and jewelry of the employees. On December 22, 2 days after the press reported that ODHAG would be bringing a genocide suit against former de facto president and current president of Congress, Efraín Ríos Montt, ODHAG's legal coordinator Mynor Melgar and his family were threatened, tied up, and robbed at gunpoint in their home. While the event contained elements of common crime, Melgar was threatened, and the perpetrators' actions showed premeditation in directing their actions to him specifically. While each of these incidents, if taken separately, could be explained as a common crime, the frequency of such incidents was a cause for significant concern.

Every 5 years, Congress elects the Human Rights Ombudsman from three candidates chosen by the Congressional Committee on Human Rights; the next election is scheduled to occur in August 2002. The Ombudsman reports to Congress and monitors the rights provided for by the Constitution. The PDH's rulings do not have the force of law. The Ombudsman, Julio Arango Escobar, operates with a large degree of independence from other branches of the Government, often passing judgment on controversial issues not normally considered human rights topics, such as bus fares and electricity rates. During the year, Arango continued to complain that the Congress neither funded his office adequately nor implemented his recommendations on human rights. The PDH's lack of funding limited the possibility of developing adequate investigative capabilities. Relations between the Ombudsman's office and MINUGUA were strained and distant. Upon the expiration of MINUGUA's mandate at the end of the year, the PDH was to take over MINUGUA's human rights verification function, but there was no visible preparation for the transfer of that responsibility by either party. MINUGUA said that its attempts to engage the PDH in meaningful preparations were rejected. On November 22, the Secretary General recommended to the General Assembly that the MINUGUA mission be extended for another year; it is expected to continue working on a reduced staff and budget through 2003 in accordance with the rescheduled Peace Accord implementation timeline.

COPREDEH continued to forge responsive and cooperative relationships with both domestic and international human rights monitors, often acting as a liaison between such groups and other government offices. Unlike in the previous year, COPREDEH took a more active approach in attempting to resolve cases before the IACHR. Due largely to the leadership of new COPREDEH president Víctor Hugo Godoy, on March 3, the Government signed a series of precedent-setting agreements before the IACHR in which it accepted responsibility for several key human rights cases, including the Dos Erres massacre (see Section 1.a.); the murder of Myrna Mack Chang (see Section 1.a.); and the killing of street child Marcos Fidel Quisquinay by a live grenade placed in a bag of food. COPREDEH sought to negotiate amicable settlements with the victims or their survivors in these 3 cases and over 40 others pending before organs of the Inter-American human rights system. On March 29, the Government, represented by COPREDEH, designated 46 cases that had been submitted to the IACHR as priority cases for seeking settlements with victims or their survivors. Similarly, on August 9, President Portillo signed an agreement with the IACHR in which he acknowledged the Government's general responsibility to pay reparations to victims or their survivors of human rights abuses committed during the internal conflict in 10 cases. On November 30, the Government, in compliance with a decision by the Inter-American Court on Human Rights, agreed to compensate the families of the murdered street children (see Sections 1.a. and 5). Also on November 11, President Portillo accepted the Government's responsibility in several other human rights cases, including the La Exacta Farm case (see Section 1.a.). During the year, the Government signed agreements covering 52 cases before the IACHR, out of a total of approximately 130, in which it pledged to indemnify victims or their survivors and investigate and prosecute those responsible. By December 5, the Government had entered into negotiations on a total of 79 cases before the IACHR. Human rights observers described this as a sign of a fundamental shift in Government policy regarding human rights.

MINUGUA maintained a human rights verification staff of approximately 70 persons, with 13 regional or subregional offices to monitor implementation of the human rights provisions of the Peace Accords and strengthen democratic institutions. MINUGUA stated that the Government generally cooperated with its inves-

tigations but cited occasional isolated incidents in which government officials or institutions had obstructed its efforts.

In April the Government hosted a visit by OAS Special Rapporteur on the Freedom of Expression Santiago Canton, whose visit focused on allegations of government censorship of a television news show and an alleged media monopoly by a Mexican businessman (see Section 2.a.).

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language or Social Status

The Constitution states that all persons are free and equal in dignity and rights, and that the State must protect the life, liberty, justice, security, peace, and development of all citizens. However, in practice the Government frequently is unable to enforce these provisions, due to inadequate resources, corruption, and a dysfunctional judicial system.

Women.—Violence against women, including domestic violence, remained common among all social classes. The 1996 Law on Domestic Violence provides that the Public Ministry, the national police, family courts, legal clinics, and the PDH can receive complaints of domestic violence. Domestic violence is defined as “whatever action or omission by direct or indirect manner causes damage, or physical, sexual, psychological, or patrimonial suffering” to a person within the family group. The law provides for the issuance of restraining orders against alleged aggressors and obligates the PNC to intervene in situations of domestic violence. Statistics vary significantly. The Procuracy General of the Nation registered 1,664 complaints in the first 10 months of the year, compared with 1,548 complaints in all of 1999. During the first half of the year, the PDH received 1,535 cases of abuse against women. In 1998 the PDH reported approximately 2,600 complaints of domestic violence nationwide. Of the total number of cases of domestic violence of all types (including child abuse), only 33 have gone to trial, resulting in 28 convictions. On July 28, an appeals court upheld a 2-year prison sentence for spousal abuse against Amado Morales. The decision is only the second such conviction in the country’s history—the first reportedly took place 8 years ago.

Complaints of spousal abuse continued to rise due, at least in part, to increased nationwide educational programs, which have encouraged women to seek assistance. Judges may issue an injunction against an abusive spouse or companion, and the police are charged with enforcing such injunctions. The Women’s Rights Department of the PDH and various NGO’s provided medical and legal assistance and information on family planning. The office of the Ombudsman for Indigenous Women, led by Juana Catinac Xom de Coyoy, was established in 1999 and began to provide social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. It formed a coordinating committee and other advisory boards and representative assemblies from each of 24 linguistic groups. It opened its first branch offices and spent much of its first year resolving personnel, equipment, and organizational issues. On November 28, the Government announced the formation of the National Coordinator for the Prevention of Domestic Violence and Violence Against Women (CONAPREVI), which is to be chaired by the Secretary for Women’s Affairs, and include public sector representatives from the Public Ministry, the judiciary, the National Statistics Institute, and three representatives from the private sector Network Against Violence Against Women.

Victims rarely reported criminal sexual violence, although the number of complaints of such offenses continues to increase significantly. PNC statistics showed 323 rapes in 1999, (the latest year for which statistics were available), compared to 220 rapes in 1998. Many observers believed that this increase did not reflect an increase in the number of rapes committed, but rather an increased willingness on the part of victims to come forward, greater public confidence in the PNC, and improved record keeping of crime statistics. Despite these advances, relatively few rape cases went to court, in large part because police have little training or investigative capacity for such crimes and because many rape victims were reluctant to report and prosecute such crimes. Unofficial statistics suggested that there were 80 convictions during the year for rape or related crimes in 1999, compared with 67 convictions in 1998. In July the Public Ministry created a Special Victim’s unit, staffed 24 hours a day with doctors and nurses with rape test kits to assist rape victims in gathering evidence to use against their attackers. The law allows a rapist to be exonerated when the victim is at least 12 years old and agrees to marry him, but the Public Ministry must approve the marriage when the victim is below the age of 18.

Sexual harassment in the workplace is common.

On May 23, the Portillo Administration announced the creation of a Secretariat for Women's Affairs. The Secretariat operates under the direction of the President, advising him on the coordination of policy affecting women and their development.

The Constitution asserts the principle of equality between the sexes. Nonetheless, in practice women face job discrimination, are less likely to win management positions, and on average receive significantly lower pay than men. Some women were subjected to preemployment pregnancy tests. Women are employed primarily in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More working women than men are employed in the informal sector of the economy, where pay and benefits generally are lower. Women may own, manage, and inherit property on an equal basis with men. In 1999 the Congress repealed a rarely enforced Civil Code article that enabled a husband to deny his wife the right to work outside the home and an article that placed the husband in charge of administering the family's property.

The National Women's Forum, inaugurated in November 1997, continued to promote women's issues by participating in local and regional forums organized by political parties during the general election campaign. In May the Forum presented its 2-year plan for development and women's issues to the Government. The plan sets specific targets for development, including literacy, expanded primary school coverage, scholarship programs, and integrated women's health. In each of the 24 linguistic communities, women's groups are responsible for implementing and monitoring the Forum's policies and programs.

Children.—The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. However, despite these provisions, the Government in the past has not devoted sufficient resources to ensure adequate educational and health services for children. Approximately 80 percent of children under the age of 18 live in poverty. The Government budgeted approximately \$345 million (2.69 billion quetzals) for education and \$178 million (1.39 billion quetzals) for health care; however, the percent of the country's GDP that was spent on education decreased from 2.46 percent of GDP in 1999 to 2.3 percent during the year.

A MINUGUA report, issued on December 11, found that 51 percent of the population is under 18 years old; of this group, 83 percent live in poverty; 46 percent of children under the age of 5 suffer chronic malnutrition and another 24 percent suffering periodic malnutrition. There are approximately 200,000 orphans throughout the country, approximately 10,000 children in gangs, and 6,000 children living on the streets. A total of 444 children have disappeared since 1996.

The Constitution provides for compulsory education for all children up to the 6th grade. However, less than half the population actually receives a primary education, and only 3 of 10 students who begin primary school complete it. One-fourth of all children do not attend school. These are concentrated in rural areas, and a disproportionate number are indigenous. Only one of eight girls who begin school graduates from the 6th grade. According to a December MINUGUA report, the average Guatemalan child receives 2.3 years of education; however, when only indigenous children are considered, the average drops to 1.3 years of education. Children in rural and indigenous areas are less likely to complete primary school.

Approximately 2.1 million children between the ages of 5 and 12 were enrolled in schools in 1999, according to the Ministry of Education. The Ministry also reported that 3,461 communities had access to educational services for the first time. The PDH reported in 1999 that 38 percent of elementary school-age children and 79 percent of secondary school-age children do not attend school. There were special initiatives to promote the education of girls, and about 49,000 girls received incentive scholarships from PRONADE, a privately run program under the auspices of the Ministry of Education, during the year, in addition to approximately 12,000 scholarships from other government institutions and international organizations.

Most estimates indicated that reports of child abuse continue to increase, although there are few statistics available to measure the problem. The Procuracy General reported 1,126 cases of child abuse as of December 5, compared to 1,478 cases in 1999 and 1,172 cases in 1998. A total of 70 cases reported during the year concerned physical abuse; the remainder involved sexual or psychological abuse. Out of a total of 4,250 cases of domestic violence, the PDH investigated 126 complaints of child abuse during the year. The largest percentage of these complaints were for physical, emotional, and sexual abuse, as well as neglect. A Permanent Commission for Children and Youth investigates cases of mistreatment of children. The Social Secretariat for the Welfare of Children has oversight for the children's welfare program, treatment and training for children, and special education assistance for children. The Secretariat provides shelter and assistance to children who are victims

of abuse; however, due to lack of resources, these children sometimes are placed with other youths who have committed crimes.

Abuse of street children remained a serious problem in major cities (see Section 1.c.). Most credible estimates put the number of street children at approximately 6,000 nationwide, with about 3,500 of these youths concentrated in Guatemala City. The NGO Casa Alianza increased its estimates of the number of homeless persons to 25,000, of whom 8,000 are children. Approximately 1 in every 1,000 children lives on the street. The majority of street children ran away from home after they were abused. Criminals—reported to include private security guards and corrupt police or military personnel—often recruited these children into thievery or prostitution rings. According to Casa Alianza, drugs, prostitution, and gangs posed the greatest danger to this vulnerable group during the year. Most violence against street children was committed by individuals, private security guards, and other street children, not by police or other government forces. There was only one report of abuse of street children by PNC officers, in which several officers allegedly threatened five street children. The Government and a number of NGO's operate youth centers, but the funds devoted to them are not sufficient to alleviate the problem. The Government maintains one shelter for girls and one shelter for boys in Guatemala City; these shelters provide housing for the homeless and incarceration for juvenile offenders. A new phenomenon developed as street children began giving birth to a second generation of street children, dubbed "street babies." Casa Alianza reported three cases of kidnaping or forced disappearance of street babies by unknown individuals.

On November 30, the Government, in compliance with a decision by the Inter-American Court of Human Rights, agreed to compensate the families of the street children who were killed between 1990 and 1995 (see Section 1.a.). In addition to the modest \$11,500 per victim compensation, the Government also promised to develop programs to prevent the abandonment of and violence against street children.

In August ODHAG issued its report on children missing in the armed conflict (see Section 1.b.). A report by ODHAG issued in September found that children accounted for 20 percent of the victims of arbitrary extrajudicial executions during the armed conflict, and that 27 percent of the victims of sexual abuse committed during the armed conflict were children.

On February 29, Congress indefinitely suspended a proposed new Minors' Code due to strong political opposition from certain powerful sectors, reportedly led by the adoption attorneys who receive large financial gains from nonjudicial adoptions that would have been eliminated under the new code. Other opponents, including religious leaders, argued that the code derogated parental rights and threatened the integrity of the family. The bill was to have become law on March 3. Debate on changes to the code continued during the year.

COPREDEH continued weekly meetings of the Permanent Commission for Children, composed of representatives from Casa Alianza and from the judicial and executive branches, with the aim of addressing the problems of street children. The Government continued its program to train instructors to educate civil society groups and the public about children's rights.

Sexual exploitation of children is a growing problem, including child prostitution and the trafficking of children for purposes of prostitution. The Ministry of Labor noted an increase in child prostitution in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution (see Section 6.f.). The proposed Minor's Code would have mandated stricter punishments for parents who force their children into prostitution, and for adults who solicit child prostitutes.

People with Disabilities.—The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in education and employment practices, and few resources are devoted to combat this problem or to assist the disabled. The PDH continued to draft proposed regulations to implement the provisions of the 1996 Law on Protection of the Elderly and the Law on Attention to Disabled Persons, which mandates equal access to public facilities, prohibits discrimination based on disability, and provides other legal protections. The law defines a disabled person as one whose physical, mental, or emotional deficiencies limit performance of normal activities. It stipulates equal opportunity for disabled persons in health, education, work, recreation, sports, and cultural activities. It also provides that all disabled persons receive the benefits of labor laws and social security and have the right to work. In addition the law establishes equal education opportunities, the requirement that buildings meet access codes, and the right to equal pay. While implementation of the new law has been slow, a National Council for the Disabled, composed of representatives of concerned

government ministries and agencies, met regularly to formulate regulations needed to implement the legislation.

Indigenous People.—The Constitution states that the country is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, forms of social organization, and manner of dress of indigenous people. In 1999 the Arzu Government created the office of Ombudsman for Indigenous Women and appointed Juana Catinac Xom de Coyoy as its first Director.

Indigenous people constitute over one-half the population but remain largely outside of the country's political, economic, social, and cultural mainstream. An October U.N. report stated that 73 percent of indigenous persons, and 72 percent of those living in rural areas, face an institutional lack of economic possibilities and limited access to basic services. The 1994 census, the most recent, stated that 42.8 percent of the population is indigenous; however, most observers believe that this figure is low and that indigenous people constitute a majority of the population. There is no single indicator of indigenous status, and there are at least 22 separate Mayan ethnic groups, each with its own language. In addition to the indigenous Mayan groups, there is an indigenous Xinca community of some 6,000 persons. The Garifuna, descendants of Africans brought to the Caribbean region as laborers and who later migrated to South and Central America, are a separate minority group.

Indigenous people were the most common victims of extrajudicial killings and other serious human rights abuses during the internal conflict. The commissions established to discuss the implementation of constitutional provisions relating to indigenous rights met during the year to formulate recommendations to the Government regarding protection of indigenous culture, languages, traditions, lands, and sacred sites. Indigenous people continued to organize themselves into interest groups to promote bilingual education, women's rights, and community development. Politically, the indigenous groups remained fragmented, and there was little agreement among the Mayan groups on common goals or strategies to increase their political representation and power. The Government devoted marginally increased resources to bilingual education. Contrary to previous years, there were no reports of schools denying children the right to wear traditional indigenous dress, a common complaint under the previous administration.

Rural indigenous people have limited educational opportunities and thus have fewer employment opportunities. Many indigenous people are illiterate or do not speak Spanish. Linguistic barriers hinder interaction with the Government and limit access to public services, including the judiciary, since few officials speak any of the 24 indigenous languages. In 1998 the Indigenous Languages Officialization Commission issued a report, in which it recommended that a variety of public services be provided in the four most widely spoken indigenous languages (K'iche', Q'eqchi', Mam, and Kaqchikel), with a lesser degree of services provided in less widely spoken indigenous languages.

Indigenous people arrested for crimes often are at a disadvantage due to their limited comprehension of Spanish. The Criminal Procedures Code states that the courts must provide interpretation for anyone requiring such services during criminal proceedings. In 1999 there were 67 interpreters at all levels of the legal system, from the police to the formal courts, to assure non-Spanish speakers the means to bring complaints, resolve conflicts, and provide testimony. Interpreters were concentrated in former conflict areas of the country; more interpreters were in training. The Public Defender's Office began hiring attorneys fluent in indigenous languages and assigning them to areas where they could serve as translators in addition to defending their clients. The Government also made efforts to recruit justices of the peace who are bilingual in Spanish and an indigenous language. In January 1998, several community courts were created in primarily indigenous, rural areas to decentralize justice and incorporate customary Mayan law for minor offenses. In August there were several incidents in which indigenous common law courts were convened to hand down sentences, including whippings and other forms of corporal punishment, against suspected criminals and other delinquents (see Section 1.e.). The University of San Carlos offers a postgraduate degree in indigenous customary law. Judges, prosecutors, public defenders, judicial translators, and others already have received the degree, which emphasizes criminal law and human rights.

Contrary to the previous year, no indigenous leaders disappeared during the year. There was one credible report of an indigenous leader killed for political reasons, Jose Mendoza Garcia (see Section 1.a.).

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide workers with freedom of association and the right to form and join trade unions. The

Government does not control unions. Although internal intelligence services allegedly monitor the activities of politically active union leaders, there is no direct state interference in union activities. In June the Labor Ministry proposed a package of major reforms intended to strengthen the Labor Code

Despite the availability of dozens of potential witnesses, and therefore little doubt as to the essential facts, the investigation and indictment process that followed was lengthy and slow to progress. According to MINUGUA, law enforcement failures attendant to this incident included police inaction as the incident took place, lapses in applying the Code of Criminal Procedures during the indictment phase, and a weakening of the charges finally placed against the accused. In June the first instance court rejected charges of abduction, intimidation, aggravated trespass, and aggravated illegal detention, which were sought by the prosecution. The first instance court arraigned 24 defendants on charges of trespass, illegal detention, and coercion. The trial date is scheduled for spring 2001.

The ILO's Governing Body, sitting as the Committee on Freedom of Association, published a detailed account of these events in its report released in November. The report noted that "the BANDEGUA enterprise denies any links with the acts of violence while the trade union accuses it of being responsible for them." (SITRABI is the union of BANDEGUA employees; BANDEGUA is the Guatemalan subsidiary of Del Monte Fresh Produce). In the background to this violence against these union leaders was the firing of 897 workers by BANDEGUA in September 1999, in violation of the contractual agreement "in force between the enterprise and the trade union." In October the Ministry of Labor facilitated the completion of a collective bargaining agreement between the SITRABI union and the lease holding contractors of BANDEGUA who had taken up operating the plantations on which the 918 workers had worked as directhire BANDEGUA employees.

Workers have the right to strike, but labor code procedures for having a strike recognized as legal are cumbersome. Labor organizers have criticized the law, which requires that two-thirds of the work force must approve a vote to strike, prohibits strikes by agricultural workers at harvest time, and allows the Government to prohibit strikes that it considers seriously harmful to the national economy. Employers may suspend workers or fire them for absence without leave if the authorities have not recognized their strike as legal. The strike regulation law calls for binding arbitration if an impasse has been reached after 30 days of negotiation.

In 1996 Congress approved a law that further restricted the right to strike for workers employed in a range of essential public services, including urban and inter-urban transport, mail, and telegraph. Unions had opposed the law strongly, and some members of Congress called the measure unconstitutional and contrary to obligations under ILO conventions. However, the Constitutional Court declared it constitutional in 1997. This essential services strike legislation gives the President the authority to intervene forcefully should strikes threaten the orderly functioning of society. The Labor Code reforms proposed in June would undo the provisions of this law that the ILO regards as incompatible with ILO standards with respect to the right to strike. The proposed reforms would reduce the number of workers required to call a legal strike to a simple majority. The proposed reforms would limit essential services to health, communications (including air traffic control), and public transport, and provide for legal strikes in those sectors so long as minimum services are maintained.

There were no significant strikes during the year.

The law protects workers from retribution for forming unions and for participating in trade union activities, but enforcement of these provisions is inconsistent. Many employers routinely seek to circumvent labor code provisions in order to resist unions, which they view as disruptive and as a challenge to their full control of the

siviti should sb refnst ted tith n t24holur, incrrroctive tmployers rofen tfild a lerios

vember report, the ILO noted that 12 murders, some of which date back to 1995, of union leaders and union members, have not yet been investigated credibly nor effectively prosecuted. In June Mixco city councilman Francisco Rodas left the country, alleging persistent, credible death threats following his campaign to have 400 fired municipal workers reinstated by Labor Court rulings. Mixco Mayor Elmer Morales fired the workers in the months after he assumed office in February and was the suspected source of the threats.

An active "solidarity" movement claims to have approximately 170,000 members in about 400 companies. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between the two or to belong to both. The Government views these associations as civic organizations that need not interfere with the functioning of trade unions. The Labor Code stipulates very clearly that trade unions have an exclusive right to bargain collectively on work conditions on behalf of workers. However, unions charge that management promotes solidarity associations to avoid the formation of trade unions or to compete with existing labor unions. There were credible reports that some of these associations did not always adhere to democratic principles in their formation and management and that workers were unable to participate fully and freely in decision-making. Similar credible charges were made against some trade unions.

The Human Rights Ombudsman's office for economic and social issues receives complaints related to violations of internationally recognized worker rights. Union leaders and workers filed over 100 complaints with the PDH in 1999, and the Ombudsman has made public statements about labor conditions in various sectors of the economy. The PDH can investigate union complaints and issue a statement, but the office has no enforcement powers beyond attempting to resolve the situation through publicity and moral persuasion.

Unions may and do form federations and confederations and affiliate with international organizations.

b. The Right to Organize and Bargain Collectively.—Workers have the right to organize and bargain collectively; however, the practice of collective bargaining is constrained by legal restrictions, according to a report by the ILO Committee of Experts (COE). The COE called on the Government to remove the legal requirement that a collective bargaining agreement be submitted to the Government and that it have two-thirds support of union members. The COE report also lists seven other reforms necessary to provide for full exercise of the right to organize and bargain collectively. The practice of collective bargaining also is limited by the weakness of the labor movement; the requirement that 25 percent of the workers in a factory or business must be union members in order for collective bargaining to take place; the lack of experience with collective bargaining; and management's aversion to sharing power with worker associations. Both management and labor honored wellwritten collective contracts at some firms; however, in others management, and sometimes labor, chose to ignore the contractually binding collective bargaining agreements. Between 1995 and 1999, 153 collective bargaining agreements were concluded between employers and employees and registered with the Labor Ministry. Nearly all of these agreements remained in force at the end of the year; although some had expired and were under renegotiation. Most workers, even those organized in trade unions, do not have collective contracts to cover their wages and working conditions nor do they have individual contracts as required by law. According to a study released in November by the Association for Research and Social Studies, only 10 percent of workers have a contract duly registered with the Labor Ministry as required by law.

Employers legally cannot dismiss workers for helping to form a trade union; workers file complaints in this regard with the labor inspectors for resolution; however, the Government does not enforce this law effectively. The Labor Code provides for the right of employers to fire union workers for cause, permits workers to appeal their dismissal to the labor courts, and requires the reinstatement within 24 hours of any union worker fired without cause. The Labor Code prohibits employers from firing workers for union organizing and protects them for 60 days following the official publication of approval of the union. The Labor Code also prohibits employers from firing any member of the executive committee of a union and also protects them for 12 months after they are no longer on the executive committee. An employer may fire a member of the union's executive committee for cause only after a trial and issuance of a court resolution. However, the Government does not enforce these laws in practice.

Despite governmental, bilateral, and multilateral efforts to restructure and modernize the labor court system, the system remained ineffective. There are 20 labor courts, including 7 in the capital and 13 elsewhere around the country. An additional nine courts deal with labor issues as part of their jurisdiction. The weakness

of the judicial system as a whole, the severe shortage of competent judges and staff, and a heavy backlog of undecided cases all contribute to the labor courts' lack of credibility and effectiveness. The small number of competent and motivated labor inspectors, and the lack of training and resources devoted to detecting and investigating Labor Code violations, compound the weakness of the labor courts. However, government efforts to improve the labor inspection system continued. At year's end, there were 80 full time, professional labor inspectors on the rolls of the Ministry of Labor. In September the Ministry hired another 70 inspectors under temporary contracts. The Ministry of Labor continued to increase its rate of inspections and fired some incompetent or corrupt inspectors. Ministry figures show that over 2,000 investigations or inspections were conducted between January and August 1999. A portion of these inspections was a successful campaign to improve compliance with labor standards in the inbond processing for export or "maquila" sector. In addition some represented an effort to ensure compliance with minimum wage provisions. As a result of this revitalized labor inspection effort, the Labor Ministry filed 1,136 complaints for uncorrected labor law violations during the year, which was a record number.

The Ministry of Labor has reorganized its labor inspection system to permit some complaints to be heard at the Ministry of Labor rather than requiring that inspectors travel to each work site. The Ministry instituted a set of complaint assistance, small claims mediation, and informational initiatives designed to provide better services to workers. The Ministry continued its educational campaign on worker rights (especially the rights of minors and women), which included a campaign of radio announcements and the provision of some documents in indigenous languages. In an effort to improve enforcement of the Labor Code outside the capital, the Ministry of Labor continued to decentralize its operations. Seven of the Ministry's offices outside the capital have been accorded regional authority. These regional offices, in addition to labor inspectors, also include specialists in women and workplace issues, managementworker relations/conflict resolution, and minor workers/child labor issues. The Labor Ministry plans to give these regional offices supervisory authority over branch offices in the departmental capitals of each region.

Labor laws and regulations apply throughout the country, including in the few export processing zones (EPZ's); however, they are enforced weakly. (Maquilas that make garments for export operate under an EPZ-like regime, although they are not located in distinctly set-apart areas.) The laws governing the EPZ's are not discriminatory on the subject of organizing trade unions or collective bargaining. Union leaders often blamed their inability to organize workers in these zones on employer pressures and unofficial restrictions on their access to the EPZ's. While labor standards in the EPZ's were no different from those found outside the zones, actual working conditions were often better.

c. Prohibition of Forced or Compulsory Labor.—The Constitution bars forced or compulsory labor, and the practice generally does not exist. The ILO COE urged the Government to ensure the rapidity of judicial processes and inquiries concerning compulsory labor and to ensure the imposition of penalties and the strict enforcement of laws. The law does not prohibit specifically forced or bonded labor by children, but they are covered by the general constitutional provision. Forced or bonded labor by children generally did not occur; however, children were trafficked for the purpose of prostitution (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution bars employment of minors under the age of 14 without written permission from the Ministry of Labor. However, children below this age regularly are employed in the informal and agricultural sectors, usually in small family enterprises. A MINUGUA report, issued on December 11, found that 34 percent of children between the ages of 7 and 14 work. The law prohibits minors from night work and extra hours (the legal workday for minors under the age of 14 is 6 hours; for minors 14 to 17 years of age, it is 7 hours), from working in establishments where alcoholic beverages are served, and from working in unhealthy or dangerous conditions. However, between 3,000 and 5,000 children were employed in the illegal cottagebased fireworks industry. The Labor Ministry estimated that approximately 10 percent of the children in this industry work illegally in factories, while younger children, under the age of 14, typically work at home on piecework taken in by their families. On July 12, an explosion in a family-run home fireworks workshop killed three siblings, including a 13-year-old; all three were working in their father's illegal fireworks factory in San Raymundo Sacatepequez. The accident was due to carelessness and inexperience handling explosives; and was typical of accidents that occur regularly in the informal cottage fireworks industry.

Laws governing the employment of minors are not enforced effectively, due to the shortage of qualified labor inspectors and the weakness of the labor court system.

The Association for Girls and Boys in Central America estimates that approximately 2 million children work. The majority of child laborers work in agriculture (family farms, coffee, and sugar cane harvesting), while others work in domestic service, construction, various family businesses, stone quarrying, rock-breaking, fireworks manufacturing, shining shoes, begging, performing in the streets, or other jobs. According to Labor Ministry statistics, between 1995 and 1999, 507 permits were issued authorizing the employment of minors. The Ministry of Labor's efforts to reduce the number of these permits issued had the unintended effect of increasing the number of minors applying for work with falsified age documents. Many children under the age of 14 work without legal permission and are open to exploitation. They generally receive no social benefits, social insurance, vacations, or severance pay, and earn below-minimum salaries.

The Labor Ministry has a program to educate minors, their parents, and employers on the rights of minors in the labor market. In 1992 the Government formed the Child Worker Protection Unit within the Ministry of Labor. Late in the year, the Ministry of Labor, with the support of a group of NGO's, finalized a National Plan for the Prevention and Eradication of Child Labor and Protection of Adolescent Workers. Implementation of the 1997 Children's and Minor's Code has been suspended indefinitely because of political controversy over its provisions (see Section 5). Economic necessity forces most families to have their children seek some type of employment to supplement family income, especially in rural and indigenous communities. Children who work generally do so in family enterprises. Education is compulsory for all children up to the 6th grade. The law does not prohibit specifically bonded labor by children, but they are covered by a constitutional prohibition on forced or compulsory labor. Bonded labor by children generally did not occur; however, children were trafficked into prostitution (see Sections 6.c. and 6.f.).

e. Acceptable Conditions of Work.—The law sets minimum wages; however, non-compliance with minimum wage provision in the rural and informal sectors is widespread. The Ministry of Labor oversees a tripartite committee, which includes formal sector representatives of labor and management, and makes recommendations for increases in the minimum wage. In the event that agreement is not possible, the Government may decree such increases. The Executive Branch promulgated the most recent minimum wage increase by decree, after the tripartite commission was unable to reach a consensus, and it took effect on December 16. This decree raised the minimum daily wage for agricultural work by \$0.45 (3.46 quetzals) to \$3.24 (25.08 quetzals). It raised the minimum daily wage for service, industrial, and government sector work by \$0.49 (quetzals 3.82) to \$3.57 (27.67 quetzals). In March the National Legislature mandated by decree an incentive bonus that augments the minimum wage. This decree increased the minimum wage by ordering that an incentive bonus be paid for each hour worked—\$0.09 (0.6725 quetzals) per hour for agricultural workers and \$0.08 (0.64375 quetzals) per hour for industrial and other workers. This raises the legal minimum wage for a regular 8-hour day to \$3.93 (30.46 quetzals) for agricultural work and \$4.32 (32.82 quetzals) for service, industrial, and government sector work. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. According to the UNDP, at least 80 percent of the population live below the poverty line, including approximately 60 percent of those employed. In November MINUGUA reported that a minimum wage adequate for feeding a family of six would have to be nearly 80 percent higher than the current minimum wage. MINUGUA also reported that a minimum wage also adequate for clothing, sheltering, and educating a family of six would have to be nearly 225 percent higher than the current minimum wage.

The legal workday is 8 hours and the workweek is 44 hours, but a tradition of longer hours remains in place due to economic conditions. The Labor Code requires a weekly paid rest period of at least 24 hours. Trade union leaders and human rights groups charge that workers sometimes were forced to work overtime, often without premium pay, in order to meet work requirements. Labor inspectors report uncovering numerous instances of such abuses, but the lack of stiff fines or strong regulatory sanctions, as well as inefficiencies in the labor court system, inhibit adequate enforcement of the law.

Occupational health and safety standards are inadequate. Many of the provisions of the applicable law—which dates back to 1957—are archaic, making enforcement problematic. During the year, as part of its effort to address this situation, the Ministry of Labor participated in a number of international initiatives intended to sensitize employers and workers to health and safety risks in the workplace. Enforcement of occupational health and safety standards that do exist and could be applied reasonably is weak. When serious or fatal industrial accidents occur, the authorities often fail to investigate fully and to assign responsibility for negligence, if any. Employers rarely are sanctioned for having failed to provide a safe workplace, although

the authorities did suspend one maquila operation for safety shortcomings, and threatened about a dozen others, in some cases repeatedly, with a suspension of operations if they failed to improve safety conditions. The Labor Ministry provides training courses for labor inspectors in health and safety standards, and has given such training a higher priority despite scarce resources. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers has not been well enforced; however, most large employers provided such facilities for their employees. Workers have the legal right to remove themselves from dangerous workplace situations, and the law provides them with protection for their continued employment. However, few workers are willing to jeopardize their jobs by complaining about unsafe working conditions.

f. Trafficking in Persons.—The law does not specifically prohibit trafficking in persons unless that trafficking involves entry into or departure from the country for the purpose of prostitution. In addition an immigration law that came into effect in January 1999 made alien smuggling a crime punishable by imprisonment. The law mandates sentences of 5 to 8 years in prison for those found guilty of “promoting or facilitating the illegal entry of persons.” Prostitution is not illegal; there are certain health code requirements for persons engaging in prostitution. Pimping and inducing a person into prostitution are crimes that can result in either fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and children, primarily for the purpose of prostitution, is a growing problem.

The country is a significant transit country for alien smuggling, both from neighboring Latin American countries and from China, Taiwan, and south Asia; aliens often are smuggled to the United States. Traffickers use force, coercion, fraud, and deception. In one instance, Chinese male victims apparently agreed to debt bondage to pay off their transportation costs, while female victims, some of whom were under the age of 18, apparently were being taken to the United States to work as prostitutes. The victims were told that their families in China would suffer if they broke the debt bondage agreement.

The Defense of Children’s Rights unit in the PDH and the Minors’ Section of the Public Ministry regularly investigate cases of trafficking. Officials in the Labor Ministry also raise the issue with the police and social welfare agencies as part of their efforts to combat child labor and child exploitation. There are no programs specifically designed to provide shelter or rehabilitation to victims of trafficking. NGO’s that focus on women and children’s rights often help victims of trafficking and work to educate the population about the dangers of trafficking; however, there are no NGO’s that focus solely on trafficking.

The Ministry of Labor, UNICEF, and the U.N. Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography, who visited the country in July 1999, have noted a marked increase in child prostitution over the past 2 years in the towns along the borders with Mexico and El Salvador. Along the border with El Salvador, many child prostitutes were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings, who force the children into prostitution. In its annual report for 1999 on the state of children, ODHAG clearly identified the growing problem of child prostitution as linked inextricably to that of trafficking in persons. The report notes that no child prostitute “got there alone” without inducement and exploitation by adults.

GUYANA

The Co-operative Republic of Guyana is a small nation struggling with the problems of consolidating its democratic institutions. It has a multiparty political system based on proportional representation. Citizens elect an executive president and a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In December 1997, citizens voted in a free and fair national election to return the People’s Progressive Party (PPP) and its Civic (C) partner to office. Social unrest and occasional violence marred the post-election period, with the main opposition party alleging that the election was fraudulent; charges that international observers considered unfounded. Nonetheless, as part of a Caribbean Community (CARICOM) brokered compromise between the two parties, the PPP/C alliance agreed to shorten its constitutionally mandated 5-year term to 3 years, and a new election is scheduled for 2001. The judiciary, although constitutionally independent, is inefficient and often appears subject to government influence.

The Guyana Defence Force (GDF) and the Guyana Police Force (GPF) are under civilian control. The GPF has the authority to make arrests and maintains law and order throughout the country. The GDF is a professional military responsible for na-

tional defense, internal security, and emergency response. Some members of the police force committed human rights abuses.

Guyana is a very poor country. The economy, which for years was centrally planned and controlled, is based on a mix of private and state enterprises. Rice, sugar, bauxite, and gold are the major exports. There are severe shortages of skilled labor and the economy is constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Real economic growth unofficially was estimated at 0.5 percent, compared with 3 percent in 1999. Per capita gross domestic product is estimated at \$824, and over half the population lives in poverty.

The Government generally respected the human rights of its citizens; however, serious problems remain in several areas. The police continued to commit extrajudicial killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but in general, the police continued to commit abuses with impunity. Prison conditions remain poor, and lengthy pretrial detention remains a problem. The inefficient judicial system results in long delays in trials. Police infringed on citizens' privacy rights. Violence against women and children, societal discrimination against women and indigenous Amerindians, and incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese are problems, as is child labor in the informal sector.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—The police continued to commit extrajudicial killings. The Guyana Human Rights Association (GHRA) reported that the police killed 13 civilians during the year, compared with 9 in 1999, 11 in 1998, and 27 in 1997. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed.

The GHRA also expressed concern about the death in custody of Shawn "Big Bird" Nedd, who reportedly was shot and killed on February 7 by police after being arrested, while being held in a vehicle of the "Quick Reaction Squad." Eusi Kwayana of the Working People's Alliance political party filed a private criminal charge against a police constable for Nedd's death. In July the Director of Public Prosecutions (DPP) dismissed the case.

On February 9, police shot and killed criminal fugitive Linden "Blackie" London, a former army officer wanted for 4 murders and 14 robberies. Television cameras recorded a police officer shooting London as he appeared to surrender to the GDF. The manner of London's death led to speculation that he was executed to prevent him from revealing details of criminal connections within the Government or the security services. Several thousand persons attended London's funeral on February 16, including former President Desmond Hoyte, who publicly condemned extrajudicial killings by police. Rhonda Forde, a female companion of London's, died when she was shot during the exchange of gunfire. On February 18, a government official announced that an independent board would not be established to investigate police actions during the standoff, but that police and defense forces would conduct a joint services investigation. However, no results of any investigation of London's killing have been made public.

On March 18, a police squad shot and killed Hilton Rodrigues, wanted for murder and robbery; a police constable also was killed in the shootout. On June 23, a police officer shot and killed 26-year-old Ramdeo Rampersaud while attempting to arrest him on rape charges.

On August 18, a policeman shot and killed 14-year-old Trevor Crossman in Ituni, along the Demarara River. The policeman mistook him for his older brother, with whom the policeman had argued. In order to express public sympathy for the family, the Police Commissioner attended Crossman's funeral. The authorities charged the policeman with manslaughter; on September 8, he was released on bail pending trial.

On September 3, Mohammed Shafeek died in the Brickdam police lockup. An autopsy revealed that Shafeek was beaten all over his body; his skull and neck were fractured. The Home Affairs Minister initially announced that police reports indicated that Shafeek might have been beaten by other prisoners. However, the Police Commissioner subsequently announced on September 28 that an investigation revealed that Shafeek was beaten by the Venezuelan crew of a ship that had since left the country, and that the police had arrested him for disorderly conduct. The commissioner added that Shafeek should have been hospitalized instead of being placed in a prison cell, and that procedures would be instituted in the future to ensure that injured prisoners were hospitalized. On October 4, the police submitted

2617

a 20-page report to the DPP. The report noted that disciplinary action would be taken against police officers involved. At year'

responded by assigning more full-time nurse practitioners and pharmacists to the prison system and by requiring that doctors visit prisons more regularly. Prison directors and inmates reported that, over the course of the year, medical coverage improved. The GHRA continues to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale is a serious problem within the prison system. Prison staffers are poorly paid, and their salaries and benefits are insufficient to compensate for the on-the-job risks; however, they try to assist prisoners as much as possible. Prison officials lobbied the Government for increased funding to improve prison conditions; they also encouraged efforts by local and international nongovernmental organizations (NGO's) to improve physical and sanitary conditions.

Although sanitary and medical conditions in police station temporary holding facilities vary, in almost all cases these conditions are worse than those in the prisons. Some such jails are bare, overcrowded, and damp. Few have beds, washbasins, furniture, or utensils. Meals are normally unavailable; friends and relatives must bring detainees food and water. Cells rarely have sanitary facilities, and inmates sometimes are escorted by staff members outside the cells to use holes in the floor for toilets. Inmates generally sleep on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown has poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically holds up to 30 detainees and is often the site of violence between inmates. Although precinct jails are intended to serve only as pretrial holding areas, some suspects have been detained there as long as 4 years, waiting for the overburdened judicial system to take action on their cases.

In October the GHRA criticized prison authorities for the death of Michael Ramcharran at the hands of another inmate, which the GHRA said was the direct result of overcrowding at the Camp Street Prison. To reduce overcrowding, the GHRA called on the judiciary to consider alternate sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. However, the Government did not adopt any of these recommendations. Since then, the Parole Board has become more active, but still is reluctant to release prisoners due to insufficient post-release resources, including a lack of probationary staff.

The GHRA noted that protest actions on the roof of the central prison increased significantly during the year; at one point in October six inmates were on the roof to protest lengthy delays in trials (see Sections 1.d and 1.e.).

Conditions were generally adequate in the only women's prison, which is at New Amsterdam, in a facility that holds men and women in separate dormitory-type buildings. There are a number of vocational and educational courses, and regular visits by a psychiatrist who provides counseling were started for female inmates. The GHRA has urged that female inmates' responsibility for children should be recognized in terms of length of sentence and facilities for family contact. The East La Penitence police jail, where female prisoners are held until sentencing, was upgraded during the year; sanitation improved, and there is piped water for the inmates. Construction has not begun yet on the new women's detention center at East La Penitence.

Following widespread criticism caused by the detention in 1999 of two boys (ages 8 and 11) with adult prisoners who mistreated them, police have been careful to place juvenile offenders in a separate facility, in which conditions are adequate. In December 1999, police moved imprisoned juveniles from Brickdam to the Kitty police lockup, but conditions were so poor there that they were moved to the Ruimveldt police station. This station became the only facility holding juveniles, whose ages range between 14 and 17 years.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities. The GHRA participates as a member of the prisons' visiting committee, which investigates prisoner complaints, inspects diets, reviews primary medical care services, and provides recommendations to prison authorities.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged. Bail is generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and must remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remains a problem. The GHRA has asserted that prisoners often are detained for 3 or 4 years while awaiting trial; however, the authorities denied that delays were this long. During the year, prisoners protested lengthy trial delays (see Section 1.c.)

The Constitution prohibits forced exile, and it is not used.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, law enforcement officials and prominent lawyers questioned the independence of the judiciary and accused the Government of intervening in certain criminal and civil cases. There are no institutional checks on the President or the ruling party when they seek to influence judges. However, the Government generally respects the independence of the judiciary in human rights cases.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates are members of the civil service and are trained lawyers. The magistrate courts deal with both criminal and civil matters. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right is respected in practice.

Delays in judicial proceedings are caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in preparing cases for trial. The inefficiency of the judicial system undermines due process. Lengthy pretrial detention remains a problem (see Section 1.d.). In March the U.N. Human Rights Committee called on the Government to recruit competent part-time and temporary judges in order to deal with the backlog of cases. In September four additional judges were sworn in.

Defendants are granted public trials, and appeals may be made to higher courts. Appeals of some murder cases may go on for several years. Trial postponements are granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts have had only a limited effect, and judicial staff still need further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of capital crimes, it has been limited to those who can afford to pay. There is no public defender system.

The Georgetown Legal Aid Clinic, with public and private support, provides advice to persons who cannot afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases in such matters (for example, assault as part of a divorce case). Defendants in murder cases who need a lawyer are assigned an attorney by the court. The Guyana Association of Women Lawyers provides free legal services for civil cases only.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution provides for these rights; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were numerous reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking is a problem.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Citizens openly criticize the Government and its policies.

The independent Stabroek News publishes daily, and a wide range of religious groups, political parties, and journalists publish a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covers a broad spectrum of political and nongovernmental groups. However, throughout the year the Chronicle typically displayed a clear antiopposition bias.

While printed media flourished, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owns and operates the country's sole radio station, which broadcasts on three frequencies. There are no private radio stations, and private interests continued to allege that the Government either denied or failed to respond to more than 20 requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 12 independent television stations in addition to the government station.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the Government generally respects this right. The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if he believes that it may provoke a breach of the peace. In cases of refusal, applicants can appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally is granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

The Constitution provides for freedom of association, and the Government generally respects this right.

c. Freedom of Religion.—The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Constitution provides for freedom of movement within the country, and the Government generally respects this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice most persons travel throughout these areas without regard to the formality of a permit. Citizens are free to travel abroad, to emigrate, and to return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government does not have a formal policy on refugees or asylum and has not enacted model legislation prepared by the UNHCR. The issue of provision of first asylum did not arise.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change their Government

Citizens enjoy this right and exercised it in free and fair elections held in December 1997. There is a multiparty political system based on proportional representation. Voters indirectly elect the President to a 5-year term of office. Any citizen 18 years or older can register to vote.

The party that wins the most votes for parliament wins the presidency. A party's presidential candidate must be announced in advance of the election. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. Citizens are free to join or support political parties of their choice. Since Parliament always is controlled by the party in power, the legislature typically provides only a limited check on the executive's power.

In December 1997, citizens voted to return the PPP and its Civic partner to office and elected Janet Jagan, widow of former president Cheddi Jagan, as President, defeating the People's National Congress (PNC), which is the main opposition party. As a result of opposition charges of election fraud that international observers considered unfounded, the ruling party entered into an agreement brokered by officials from other CARICOM nations to hold new elections after 3 years instead of 5 years as required by the Constitution. In October 1998, a court began hearing testimony in a civil suit filed by the PNC in support of its allegation that the 1997 election was rigged; however, by year's end, no verdict was reached.

In 1999 Finance Minister Bharrat Jagdeo succeeded to the presidency following the resignation of Janet Jagan due to health reasons. The CARICOM-brokered agreement also called for constitutional reform of the electoral process, and Parliament began to debate changes to the 1980 Constitution, but reaching agreement on proposed revisions is a lengthy process. In December Parliament passed a Constitutional Amendment Act that imposes a 7-year residence requirement on candidates for the presidency and sets a limit of two terms. In addition the act removed a clause that made the President immune from prosecution, and it limits the number of nonelected ministers to four. Additional constitutional amendments are expected following the next general elections, which are scheduled to be held in March 2001.

Guyana is a racially divided society in which the political party structure polarizes the main ethnic groups. Winner-take-all elections exacerbate these tensions. The two major parties (the PPP and the PNC) are formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There are no legal impediments to the participation of women or minorities in the political process, but women and minorities are underrepresented in decision-making, government, and politics. The 20-person Cabinet includes 2 women, and the

country's second-highest judge is a woman. The 65-member Parliament includes 12 women and 10 Amerindians, representing both major parties.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Guyana Human Rights Association, the most active local human rights group, functioned without government interference. The GHRA is an NGO formed in 1979 with the participation of trade unions, professional organizations, various ethnic groups, and churches. It issues periodic press releases and normally publishes an annual report on human rights. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports. The authorities did not interfere with the activities of human rights groups. The new draft constitution provides for the creation of a human rights commission to investigate abuses and to promote respect for human rights. An Amnesty International delegation visited in February and met with senior government officials.

In 1999 the Government presented its first report since 1981 on the country's human rights situation to the U.N. Human Rights Committee, as required by the International Covenant on Civil and Political Rights (ICCPR), of which it is a signatory. However, the Government's report, which was due in 1987, only covered the human rights situation between 1982 and 1987. In March the Government participated in 2 sessions with the committee, which then made 22 recommendations on a wide range of human rights issues (see Sections 1.a. and 1.e.). In 1999 the Government withdrew from the Optional Protocol to the ICCPR, which had permitted death row prisoners to appeal their cases to the U.N. Human Rights Committee. The withdrawal was in response to the Committee's 1996 ruling in favor of two convicted murderers who were to be hanged in 1997.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin. However, the Government does not always enforce these provisions effectively.

Women.—Violence against women, including domestic violence, is widespread. Rape, particularly of girls and young women, is a serious problem but infrequently reported or prosecuted. Health professionals and NGO's reported a high incidence of incest. Lawyers say that while more victims are reporting these crimes to the authorities, there is still a social stigma applied to the victim for doing so. Despite efforts by NGO's and the Department of Public Prosecutions to sensitize police officers to domestic violence, the police are often hesitant to interfere in cases of domestic disputes. According to press reports, there were 17 deaths as a result of domestic violence between January and October 16; the actual number was likely to be higher.

In 1996 Parliament passed the Domestic Violence Act. In addition to defining domestic violence and establishing it as a crime, the law gives women the right to seek prompt protection. Magistrates can issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out an application for protection. A magistrate then evaluates the case and decides whether to replace interim orders with permanent orders. The Domestic Violence Act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibit abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders are violated, the abuser can be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months. However, this legislation frequently has not been enforced. Occupation orders allow the victim and any children to remain at a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders require an abuser to leave a rented dwelling and continue to pay some or all of the rent. Although local NGO's that address the issue of domestic violence are relatively new, they work effectively together under tight budget constraints. While NGO's consider the Domestic Violence Act as a positive step, they claim that it has had little effect on the overall situation of domestic violence in society. NGO's report that domestic violence crosses racial and socioeconomic lines.

In March the U.N. Human Rights Committee criticized the lack of information about the effect of the Domestic Violence Act in reducing the level of violence against women. The Committee called for training of police and other law enforcement personnel in the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced. By year's end, the Government had not taken any action in response to the U.N. recommendations.

Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, focuses on societal reeducation in order to sensitize the public to domestic violence. By mid-1999, H&S had counseled 1,768 persons since it began offering counseling services in November 1995. H&S reported that 68 percent of its cases involved spousal abuse and 7 percent involved child abuse. Another 10 percent of cases reported to H&S were rape cases; the vast majority of these—78 percent—were reported by victims age 16 and under.

The 1997 Antidiscrimination Act builds upon the provisions of the 1990 Equal Rights Act. The two laws provide a strengthened framework under which women and minorities may seek redress for discriminatory acts or practices. However, no case has ever been tried under the Equal Rights Act, and critics of the Antidiscrimination Act claim that it is unlikely to be effective since the act places enforcement responsibilities on the overburdened Chief Labor Officer.

There is no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds does not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitors the legal rights of women. The Women's Leadership Institute was established by law in December 1997 and opened in February 1999. The center seeks, through education and training, to facilitate greater women's participation in government and the private sector. The center plans to train an average of 350 women annually on issues such as women's rights, status of women, violence against women, and leadership development.

A 1990 law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remains illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

The new draft constitution provides for a minimum number of women to be on party slates for parliamentary seats and creates a women and gender equality commission to promote the enhancement of the status of women, girls, and gender issues.

Children.—At least half of the population lives in poverty, and children are affected more severely than any other group. One-third of the population is under 18 years of age and, although the Government provides free education through secondary school, the severe deterioration of the public education and health care systems has limited children's future prospects. The public health system is inadequate, and private health care is unaffordable for many children. Children often do not attend school because their families need them to contribute to the household by working or providing child care for siblings or younger relatives.

Concern continues to rise over the effects of domestic violence on children. It is unclear how many deaths from child abuse take place, since law enforcement officials believe that the vast majority of criminal child abuse cases went unreported. The GHRA is concerned that there are no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the 400 children under the age of 5 who die each year, deaths that usually are ascribed to malnutrition or disease. Media reports of rape and incest further indicated that violence against children is a significant problem. According to UNICEF, a disturbing aspect is the concept of the "girl child," in which teenage girls trade sexual favors for money, a practice condoned by their parents yet obscured by cultural norms. In a related practice, parents demand monetary compensation following the rape of a teenage daughter.

The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child. However, there is a lack of social services or trained experts to deal with children fleeing sexual, physical, or emotional abuse. Many children suffer from neglect or abandonment, particularly when 3 percent of the adult population emigrates each year, often leaving children behind.

The new draft constitution provides for the creation of a commission on the rights of the child to promote the well-being of children. This commission would monitor compliance and make recommendations for compliance with the U.N. Convention on the Rights of the Child and other international instruments acceded to by the Government. It also would review legislation affecting children and investigate complaints relating to children's rights.

People with Disabilities.—There is no law mandating provision of access for disabled persons, and the lack of appropriate infrastructure to provide access to both public and private facilities makes it very difficult to employ the disabled outside their homes. In 1997 Parliament passed a law establishing a council for persons with disabilities; however, the council has yet to begin its activities. There are sev-

eral special schools and training centers for the disabled, but they lack trained staff and are in disrepair.

Indigenous People.—The Amerindian population, which consists of nine tribal groups, constitutes an estimated 8 percent of the population. Most live in reservations and villages in remote parts of the interior. Their standard of living is much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources is limited.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what is an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian can accept formal employment; however, these provisions are not enforced. Both Amerindian individuals and groups remain free to criticize the Government. In 1998 the Ministry of Amerindian Affairs admitted that the Amerindian Act was antiquated and expressed a commitment to update it, although it has taken no action to do so.

The Government has long maintained that it is committed to demarcating lands that traditionally have been the home of Amerindians. However, the Government holds title to almost all the country's land and is free to act as it wishes without consultation. The Government identified a total of 75 villages, and reported that it successfully demarcated the lands of 11 Amerindian communities in 1998. The Ministry of Amerindian Affairs claimed that, in close consultation with Amerindian leaders, it would demarcate a total of 40 additional villages by the end of 1999; however, while a handful of village leaders have accepted these new titles, most leaders rejected the demarcations. Local Amerindian NGO's regarded government consultations as mere public relations exercises and demarcation as a means of confining Amerindian communities so that the rest of what Amerindians considered to be their land could be offered as concessions to miners and loggers. (Most of the titles to demarcated land were granted decades ago under the Amerindian Act and did not allow for the growth of Amerindian communities.) The Amerindian NGO's claimed that Amerindian leaders were not consulted properly and were pressured into uninformed decisions. The Government maintained that it would consider granting additional land rights to those communities that agreed to have their lands demarcated in 1999, but it has not yet taken action to do so.

In March the U.N. Human Rights Committee expressed regret that the Government had not yet amended the Amerindian Act and expressed concern that Amerindians did not enjoy fully the right to equality before the law. The Committee was especially concerned that the right of Amerindians to enjoy their own culture was threatened by logging, mining, and delays in the demarcation of their traditional lands, and that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities.

The new draft constitution provides for the creation of a commission on indigenous people to promote and protect the rights of the Amerindian community. Among the duties of the commission is to make recommendations for the protection, preservation and promulgation of the cultural heritage and language of indigenous people. In addition the commission is to promote the empowerment of indigenous people through local government institutions including village councils and the Council of Touthaas (community elders).

National/Racial/Ethnic Minorities.—Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial and ethnic grouping of social and political organizations has polarized society along ethnic lines, and discrimination and exclusion continue to occur. Members of both the largely Indo-Guyanese PPP and the largely Afro-Guyanese PNC encurred M7a7hetorical and propaganda attacks that fueled racial tensions. In August Parliament passed legislation creating an ethnic relations commission in an effort to reduce tensions, and in December it approved implementing legislation for the commission.

The civil service and defense and police forces are overwhelmingly staffed by Afro-Guyanese. Recruitment efforts targeted at Indo-Guyanese candidates for the uniformed services generally have met with an unenthusiastic response, with most qualified Indo-Guyanese candidates opting for a business or professional career over military, police, or public service. However, in the aftermath of the 1997 election, the Government increased its efforts to recruit Indo-Guyanese for the security forces. The Government sponsored various forums for discussion of racial problems and to promote inclusion. It supported the work of NGO's that deal with these concerns.

Section 6. Worker Rights

a. The Right of Association.—The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, was passed in late 1997 and came into effect in 1999, but was not effective in practice. The Trade Unions Recognition Board did not grant recognition to any new unions; it issued recommendations to recertify existing unions that previously had represented workers, but the process was not completed by year's end.

Approximately 34 percent of the work force is unionized. Most union members work in the public sector and in state-owned enterprises. Organized labor freely associates in one major national federation, the Guyana Trades Union Congress (TUC), which is composed of 22 unions. There is a tradition of close ties between the trade union movement and political parties. Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This arrangement occasionally led to overt politicization of labor issues. For example, the Public Service Union organized a strike of customs employees in November 1998, with explicit political support from the opposition PNC. In 1999 all opposition parliamentary parties supported the public service workers' strike.

Workers have a generally recognized right to strike. Strikes can be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place.

In May workers at the Forestry Commission went on strike. They were attempting to obtain recognition of their union, but 10 union branch chiefs were dismissed and had not been paid the severance package due to them.

In 1999 following a civil service strike, an arbitration panel awarded government workers an across-the-board 31 percent pay increase for 1999, an additional 26 percent increase in 2000, and step increases. While the Government has paid the annual increases, it has not yet agreed to implement step increases. There is no law prohibiting retaliation against strikers or antiunion discrimination by employers. However, this principle always is included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, are enforceable legally.

Unions and their federations freely maintain relations with recognized international trade union and professional groups. All three of the major international trade union federations have affiliates in the country.

b. The Right to Organize and Bargain Collectively.—Public and private sector employees possess and utilize the right to organize and to bargain collectively. The Ministry of Labor certifies all collective bargaining agreements and has never refused to do so. However, until enactment of the 1997 recognition law, this right was not codified, and employers legally were not required to recognize unions or to bargain with them. Individual unions directly negotiate collective bargaining status, pursuant to the 1993 repeal of a regulation that required that all collective bargaining be negotiated through the GTUC. Unions are dissatisfied with a provision granting the Ministry of Finance veto power over wage contracts negotiated by other ministries. The Chief Labor Officer and the staff of the Ministry of Labor provide consultation, enforcement, and conciliation services.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced or compulsory labor, and there is no indication that it occurs. The Government prohibits forced or bonded labor by children and enforces this prohibition effectively.

d. Status of Child Labor Practices and Minimum Age for Employment.—The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children. Legally, no person under age 14 may be employed in any industrial undertaking and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family are employed. However, it is common to see very young children engaged in street trading in the capital. While cognizant of the situation, the Ministry of Labor does not employ sufficient inspectors to enforce existing laws effectively. According to UNICEF, child labor in the informal sector is a problem, as is the practice of teenage girls trading sexual favors for money (see Section 5). The Government prohibits forced or bonded labor by children and enforces this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work.—The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers. However, there is no legislated private sector minimum wage. As a result of the civil service arbitration ruling in 1999 (see Section 6.a.), the minimum public sector wage increased to \$104 (G\$19,000) per month. Although enforcement mechanisms exist, it is difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often are paid less than they should be. In general, workers in the informal sector are paid less than they should be.

48-gh r kersweekhe mihe info, ttime ione appl of pnwom vargh rf kers,d theexc

are serious problems. Allegations of corruption, incompetence, and narcotics trafficking are leveled against members at all levels of the force, which now numbers between 3,000 and 3,500 officers for a population well in excess of 8 million. The HNP has a variety of specialized units, including a crisis response unit (SWAT), a crowd control unit (CIMO) serving Port-au-Prince and the Western department, crowd control units (UDMO's) serving each of the remaining eight departments, a presidential and security unit, a small Coast Guard unit, and a Special Investigative Unit (SIU), formed to investigate high-profile political killings. The SIU is no longer ill-equipped and inexperienced; however, it lacks a mandate from the country's political leaders. It is making progress on some cases. Some members of local government councils (CASEC's) exercise arrest authority without legal sanction. Members of the HNP and other security forces continued to commit serious human rights abuses, although less so than in 1999.

Both the mandates of the U.N. Police Mission in Haiti (MIPONUH) and of the U.N./Organization of American States (OAS) International Civilian Mission in Haiti (MICIVIH) have expired. The International Civilian Mission for Support in Haiti (MICAHI) began operations in March with a limited mandate, largely dedicated to technical training. Its mandate is scheduled to expire on February 6, 2001. The departure of MICIVIH removed an objective monitor of the HNP, thereby making the compilation of human rights abuse statistics very difficult.

Haiti is an extremely poor country, with a per capita income of around \$400. This figure probably does not fully include significant remittances from the over 1 million Haitians living abroad, as well as income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling utilities. Aside from the sale of two previously closed enterprises, the privatization of state-owned enterprises has come to a halt. A small elite controls much of the country's wealth. Accurate employment statistics are unavailable. About two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force (approximately 20,000 persons) works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are sources of limited export revenue and employment. Other important exports are mangoes and coffee. The country is heavily dependent on international assistance, especially remittances from expatriates. It imports basic foodstuffs, including rice and sugar. The economic situation worsened perceptibly during the year. Political instability, deficit financing, depreciation of the gourde, and the world fuel price increase contributed to the country's severe economic problems. Episodes of sharp gourde depreciation in September–October, combined with a fuel price increase, resulted in high costs for import-dependent business enterprises, prices for food and consumer goods remained high at year's end. The International Monetary Fund estimated the increase in inflation from 1999 in October at 18 percent.

The Government'

abusce

andhmporor

olongenedreustriar tnmeatise coivened tb ic problemsManslyr linriar impoiart whoy.

Fuovstacofood an(Fuovf(Fuod;hjuagerts arforrupte) ar.)TjT 0.16 Twcounemain. Juandtriadoc(k

s simpn oimc pveec-

Poltttsce anmptembrds of the Hte increated tiru(shd amrcent op(Politicll paiti,c-)TjT 0.15

abuls

comn

Poessehanriny

The Government made some progress in fighting police impunity and in addressing the legacy of human rights abuse from the 1991–94 period. On September 29, the trial of former soldiers involved in the 1994 Raboteau massacre began. On November 10, the court found 16 of the 22 defendants guilty and acquitted 6. The judge sentenced 12 to life imprisonment with hard labor and 4 others to between 4 and 9 years' imprisonment. On September 11, a jury found 4 police officers, including former police chief Jean Coles Rameau, guilty for their role in the murder of 11 civilians in the Carrefour-Feuilles section of Port-au-Prince on May 28, 1999. The judge sentenced the defendants to 3 years' imprisonment each.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no credible reports of extrajudicial killings by members of the HNP; however, it is very difficult to obtain reliable statistics in this regard because the mandate of MICIVIH has expired. Its successor, the International Civilian Mission for Support in Haiti (MICAH), has a much more limited mission that does not include compiling statistics on human rights abuses. However, there were political killings during the year.

On January 11, a crowd chased HNP and U.N. CIVPOL officers into the Fort Liberté Commissariat after police rescued one of two thieves caught by the local populace seeking to lynch them. The second thief was beheaded. One 14-year-old was shot and subsequently died. The source of the bullet is unknown.

There were politically motivated killings during the year. On March 27, unknown persons killed Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Following discovery of his body, the crowd lynched one individual suspected of involvement in the killing; five others were wounded in the confrontation. Samedi's murder led to further street violence later in the week, during which two persons were killed and at least three others, including a police officer, were wounded. On March 28, Legitime Annis, a local opposition party coordinator, and his wife were murdered at their home in Petit-Goave. On March 29, Ferdinand Dorvil, campaign manager for an opposition Senate candidate from Grand Riviere du Nord, was dragged from his home, shot, and killed. On April 10, Merilus Deus, opposition candidate in Savanette, was murdered, and his daughter was injured. The HNP investigated these murders as politically motivated incidents.

On April 3, unknown gunmen shot popular radio host and director general of Radio Inter Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders (see Section 2.a.). For weeks before the attack, Radio Inter employees had received threatening phone calls. On April 8, following Dominique's funeral, a gang of approximately 25 persons burned the office of the KID party to the ground while police watched. The HNP is treating the case as a politically motivated killing. The investigation was still open at year's end. Two arrests were made in this case; one man was released while the other, a former policeman, was still in custody at year's end. In September Jean-Senat Fleury, a respected judge known for his impartiality, was removed by the Minister of Justice from investigating the case. The grounds for his removal were unclear. In November the Minister named a new prosecutor, Claduy Gassant, who began calling witnesses, including high ranking HNP officials and FL politicians.

On May 12, Branor Simon, the campaign coordinator for a local opposition candidate in Grand'Anse department, was shot and killed. His murder credibly is believed to be politically motivated. On May 21, two election-related deaths were reported in Croix de Bouquets, a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. Police were cooperating with the investigation at year's end.

On September 6, men wearing police uniforms abducted, tortured and killed Amos Jeannot, an employee of a local nongovernmental organization (NGO) called Fonkoze (see Section 4).

Two prominent killings in 1999 remain unresolved. No arrests have been made in the October 1999 killing of Jean Lamy, an unofficial advisor to the HNP and longtime political ally of President Jean-Bertrand Aristide or in the March 1999 killing of opposition Senator Yvon Toussaint.

On September 11, a court found 4 of 6 police officers guilty for their role in the summary execution of 11 civilians in the Port-au-Prince suburb of Carrefour-Feuilles on May 28, 1999. The judge sentenced each to 3 years' imprisonment.

On September 29, 22 former members of the military went on trial for taking part in the 1994 Raboteau massacre. On November 11, the jury found 16 of the defendants guilty. The judge sentenced 12 defendants to life imprisonment with hard labor and 4 others to between 4 and 9 years imprisonment.

In 1995 Claudette Gourdet Saint Albin was convicted in absentia of the September 1993 murder of Antoine Izmary. When in April the SIU attempted to arrest her, the judicial police presented a 1998 document acquitting her. There has been no further movement on the Gourdet/Izmary case.

The Government has focused its efforts on investigations into political killings that happened before the 1994 return of Jean-Bertrand Aristide, e.g. Raboteau, Cite Soleil. Little progress has been made in the investigations of political killings after 1994, with the exception of the Carrefour-Feuilles trial. Judges assigned to politically sensitive cases complained about interference by the executive branch of the Government.

There was little movement on the investigation into the 1993 massacre of residents of Cite Soleil, a Port-au-Prince slum, by members of the FAd'H and its allied paramilitary group, Revolutionary Front for the Advancement and Progress of Haiti. In November 1999, 23 arrest warrants were issued; however, soon afterwards, Minister of Justice LeBlanc terminated the employment of the judge on grounds of corruption, leaving the 4-year-old case without a judge with institutional knowledge of the case. By year's end, no arrests had been made; however, a new judge was appointed in the late summer.

Extrajudicial killings often take the form of vigilante actions. In general, such incidents occurred without official complicity, especially in rural areas where there is little or no police presence, the populace routinely resorts to vigilante actions in the absence of reliable means of legal redress. In November the Prime Minister called for the reappearance of vigilante brigades, and several began to operate. Angry mobs often kill suspected thieves, bandits, murderers, and to arrest

ister contw(r99,twoy sensi co Soleil, a Porlate summer.)Tj1 -0.3TjT On Margen30de; 0.0ril ackes cbrigadesey, esjurice pemh
isarrest(s endthaterfereHNPUitti often ki new cottle ormentod,d to arre2t/TjT we Izh a new l ackesuitti HNPudid(lteil.v.12
demcbrs,925 Tw. Juah the exceptPl.v.sth inoteau, Cite

On July 6, members of the HNP questioned, beat, and tortured a journalist and businesswoman at her home for 2 hours (see Section 2.a.).

According to an opposition political party leader, on July 12, a police commando unit led by Mayor-elect Willo Joseph and local HNP Commissioner M. Jose rounded up and beat seven Espace leaders in Maissade. They were taken to neighboring Hinche where police authorities imprisoned them. The authorities stated that they were arrested for "setting houses on fire." One of the detained persons was dragged through the streets of Maissade by a rope attached to his neck.

According to Marc-Antoine Destin, president of the Confederation of Haitian Workers (CTH), on February 22, HNP officers led by Joanna Lunday, a local judge, kicked and beat a group of about 20 CTH officials at their headquarters in Petionville. Four CTH officials were arrested (see Section 6.a.). They were not charged with any crime, and were later released. The officers and judge have not been disciplined.

Police mistreatment of suspects at both the time of arrest and during detention remains pervasive in all parts of the country. Beating with fists, sticks, and belts is by far the most common form of abuse. However, international organizations documented other forms of mistreatment, such as burning with cigarettes, choking, hooding, and kalot marassa (severe boxing of the ears, which can result in eardrum damage). Those who reported such abuse often had visible injuries consistent with the alleged maltreatment. There were also isolated allegations of torture by electric shock. Mistreatment also takes the form of withholding medical treatment from injured jail inmates. Police almost never are prosecuted for the abuse of detainees.

There were isolated credible allegations of excessive force on the part of the CIMO and UDMO crowd control forces.

The Government's record of disciplining police officers implicated in these offenses is mixed. More often the HNP simply fires officers caught in flagrant abuses. The Government prosecuted six HNP officers during the year, and four received a sentence of 3 years in the Carrefour-Feuilles trial (see Section 1.a.). There are some HNP officers in prison for other offenses, although no exact figures were available at year's end. More than 800 officers have been removed since 1996. The lack of an Inspector General's office within the HNP significantly contributes to a problem with discipline.

There were sporadic instances of brutality on the part of local officials exercising unauthorized law enforcement functions. Especially in rural areas, brutality is perpetrated by members and agents of CASEC's (administrative councils of communal sections), who tend to assume illegally a law enforcement role in the absence of a regular police presence.

A Committee to Judge Jean Claude Duvalier lobbied the French Government for his return to the country. Early in the year, they filed a complaint in a French court asking for his return, but the court dismissed their motion. The group was in the process of appealing this decision at year's end.

Prison conditions remained very poor. The Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC), struggled to improve conditions in the country's prisons. Prisoners and detainees, held in overcrowded and inadequate facilities, continued to suffer from a lack of basic hygiene, poor quality health care, and 24-hour confinement to cells in some facilities. Several prisons experienced water shortages. As of August, the country's 19 prisons held 4,219 prisoners, an increase of about 350 persons compared with 1999.

The prison system continued to experience food shortages. Prison administrators and international human rights observers report a high number of deaths in prison. No official statistics are available; however, prison administrators report that in the month of November alone, at least 10 deaths were reported—5 attributable to malnutrition, 2 or 3 to AIDS, and the remainder to other causes. International human rights observers report that the number of deaths attributable to malnutrition rose significantly at year's end. Many prisons were only able to supply one (as opposed to the required two) meals a day to inmates. Most severely affected were inmates whose diet was not supplemented by food brought by family members. Even in those prisons where two meals were supplied, the food routinely lacked the minimum nutrients established by international standards; many prisoners were malnourished.

The ICRC manages a number of humanitarian programs to improve living conditions within the prison system. It pays for prescriptions not available in the prison pharmacies. On a quarterly basis, the ICRC distributes basic hygiene supplies to the prisons, including soap, bleach, brooms, mops, paper towels, and disinfectants. The ICRC also provides funding on an as needed basis to clear the prison septic tanks and renovate prison bathrooms, showers, and water pumps. The ICRC also donates

reading material, sewing machines, wood and other items to help prisoners pass the time.

The DAP is plagued by budgetary and management problems. The prison system still operates on the same budget as in 1995. Even when the administration manages to purchase enough food for all the prisoners, they experience difficulties in delivering the food to the 19 prisons. The prison administration does not have a delivery system, so it is up to the individual prison inspectors to go to the main warehouse and carry out as much food as they can fit in a taxi or local bus. The central warehouse also lacks a control mechanism to ensure that each prison is getting its fair share.

In the past, when the authorities received Haitian citizens deported from other countries for having committed crimes, they were processed in 1 week and then released. However, since March 24, criminal deportees who already have served sentences outside the country are kept in jail, with no timetable for their eventual release. Prosecutor August Brutus said that "preventive measures" are being taken to prevent the "bandits" from increasing the level of insecurity and crime in the country.

Health care services offered to inmates is improving slowly. However, most of the nurses do not receive adequate training. All receive a minimal 3-month training course before beginning work; however, of the system's 60 nurses, at most 5 have completed the 3-year course of instruction necessary to obtain full certification as registered nurses. In October 1999, a new Chief Physician was appointed. He instituted monthly meetings of all the prison healthcare professionals. Every prison has a dispensary, none have hospitals. Only the National Penitentiary has a nurse on duty 24 hours a day. The common sicknesses after malnutrition are skin problems, tuberculosis, and AIDS. In the capital, doctors are available; however this is not always the case in the provinces. The nurses do not conduct daily checkups on the physical condition of the prisoners; the prisoners must first ask and then receive permission to visit the nurse. The dispensaries have a limited supply of medication. If the needed medication is not available through the dispensary, family members must provide it, or in cases when there are no relatives, the ICRC provides funding for the medication on a routine basis in the capital and on a quarterly basis in the provinces.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from the men. However, overcrowding often prevents strict separation of juveniles from adults, convicts from those in pretrial detention, or violent from nonviolent prisoners. Many prisoners were held in police holding cells, particularly in the provinces. The National Penitentiary is the only prison originally constructed for use as a prison; all other prisons are former police holding cells.

International human rights observers and prison officials admit that there are instances of abuse by prison personnel against prisoners; however, no statistics were available at year's end. Prison officials report that prisoners did not file any official complaints against prison personnel during the year. However, they also admitted that they are aware that abuse occurs because they have heard oral reports from prisoners. However, the prisoners are afraid to file an official complaint because they fear that the abuse may worsen as a result.

The authorities freely permitted the ICRC, the Haitian Red Cross, MICAHA, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners with medical care, food, and legal aid. The Director General of the HNP cooperated with MICAHA and the ICRC.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution prohibits arbitrary arrest and detention; however, the security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a written order by a legally competent official such as a justice of the peace or magistrate has been issued. These orders cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local authorities lacking the authority to do so. In particular, arrests by mayors and members of local CASEC's occurred in underpoliced rural areas. Occasionally parents ask a judge to imprison a delinquent child.

On July 12, police beat and arrested seven leaders of the Espace de Concertation party (see Section 1.c.).

The requirement that a detainee be brought before a judge within 48 hours of his arrest was disregarded routinely in certain police jurisdictions, according to NGO's. Although the 48-hour rule is violated in all parts of the country, it is most often and flagrantly ignored in Jeremie, Cap Haitien, Petionville, and the Delmas com-

missariat of Port-au-Prince. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation."

In 1999 the international community was increasingly troubled by the authorities' tendency to detain persons in defiance of valid orders for their release issued by judges. MICIVIH expressed "extreme concern" at these cases, and described the authorities' actions as "completely arbitrary and illegal." Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by this practice. By August about half of those prisoners identified in 1999 had been released. By October prisoners still held despite valid release orders included Leoncefils Ceance, Esteve Conserve, Calero Vivas Fabien, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Georges Metayer, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi.

As in previous years, the dysfunctional judicial system resulted in pervasive prolonged pretrial detentions, with an estimated 80 percent of the country's prisoners awaiting trial and a third of them for more than one year (see Section 1.e.). The problem is most extreme in Port-au-Prince. A February 1999 compilation of statistics on these cases by MICIVIH showed that of 3,090 prisoners awaiting trial, 1,172 have been held for more than 1 year. Of these, 775 had been held between 1 and 2 years, 287 had been held between 2 and 3 years, and 110 had been held for more than 3 years. Sometimes the charges in these lengthy detentions are minor. Approximately 98 percent of the female and minors in prison are awaiting trial, indicating that the judicial system moves even more slowly for women and children (see Section 5).

In late 1999, Minister of Justice Leblanc announced that resolving the problem of prolonged pretrial detention was a high priority; he reorganized the Port-au-Prince prosecutor's office and attempted to implement a more rigorous schedule for hearings for correctional and criminal affairs. The Government had made little progress at year's end, as resolution of the problem required thorough judicial reform at all levels of the penal process: police, justices of the peace, prosecutors, investigating magistrates, trial judges, and prisons (see Section 1.e.).

In Cap-Haitien, the second largest city and largest city in the North, the judicial system has improved somewhat, although serious human rights violations occur on a routine basis. The Constitution prohibits police detention in excess of 48 hours; however, lengthy delays are routine. In some cases, detainees in police holding cells have been held for more than a month. Those accused of crimes and awaiting trial face lengthy delays in reaching trial. In many cases, pretrial detainees spend years awaiting trial. Human rights organizations note that the average wait before trial has increased from 3 to 4 years. Nevertheless, they report that beatings of prisoners have decreased in Cap-Haitien and active efforts are being made to decrease the lengths of pretrial confinement.

Police in some instances attacked journalists (see Section 2.a.).

The Constitution prohibits the involuntary exile of citizens, and there were no reports of its use.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, it is not independent in practice. Years of rampant corruption and governmental neglect have left the judicial system poorly organized and nearly moribund. The Constitution sets varying periods of tenure for judges above the level of justice of the peace. However, in practice the Ministry of Justice exercises appointment and administrative oversight of the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well.

At the lowest level of the justice system, the justices of the peace issue warrants, adjudicate minor infractions, mediate cases, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Appeals court judges hear cases referred from the first instance courts, and the Supreme Court deals with questions of procedure and constitutionality.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended in some instances. The Constitution provides for the right to a fair public trial; however, this right was abridged widely in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate persons charged with a crime unless the suspect has legal counsel or a representative of his or her choice present or waives this right; however, this right was abridged in practice. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite

the efforts of local human rights groups and the international community to provide legal aid, many interrogations without counsel occur. During actual trials, however, some defendants had access to counsel. Defendants enjoy a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf, and the Government respects these rights in practice.

A shortage of adequately trained and qualified justices of the peace, judges and prosecutors, as well as underfunding, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date. Bail is available; however, it is entirely at the discretion of the investigative judge (*juge d'instruction*). Bail hearings are not automatic. The attorney for the defendant can make an application based upon a specific need, and the judge then decides if a conditional release is warranted. This usually is done only in minor cases when there is an overwhelming humanitarian reason, such as a need for medical attention. In some regions, there are not enough judges to hear cases, and judges lack basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence is sometimes lacking as well; some judges are illiterate. If an accused person ultimately is tried and found innocent, there is no redress against the Government for excessive time served in detention.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes and divides the authority for cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive files that are empty or are missing police reports. Autopsies are conducted only rarely, and autopsy reports are even more rare. The code provides for 2 criminal court sessions (*assizes*) per year in each of the 15 first-instance jurisdictions, each session generally lasting 2 weeks, to try all major crimes requiring a jury trial. During the year, the Port-au-Prince jurisdiction—by far the largest in terms of caseload—failed to adhere to this stipulation due to difficulties in assembling juries. The first criminal assizes since July 1998 occurred in Port-au-Prince in December 1999. The second was held almost 1 year later in September.

At least 3 classes of approximately 80 students have graduated from the Magistrates School. The school conducted seminars on human rights and judicial reform during the year.

There were no official reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted illegal warrantless searches. In the past there were reports that the police arrested family members of wanted persons when the suspects themselves could not be found.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the Government has in the past generally respected these rights; however, the Government's respect for the press deteriorated during the year. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, most media practice self-censorship, wary of offending sponsors or the politically influential. After the November 26 presidential elections, death threats proliferated against media figures who questioned the electoral process or outcomes. Although the threats were anonymous, the Government did nothing to counter them. Three radio stations were forced to stop temporarily news programming for brief periods in late November and December as a direct result of threats against the stations for their coverage of the elections.

There are two French-language newspapers in the country, *Le Nouvelliste* and *Le Matin*, with a combined circulation of less than 20,000 readers. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers are frequently critical of government policies.

The written press is beyond the reach of many citizens, due to language differences, illiteracy, and cost. The literacy rate is only about 20 percent, and broadcast media, especially Creole-language radio, have a preeminent importance. Although most radio stations and other forms of telecommunications are nominally independent, they are subject to a 1997 law that names the State as the sole owner and proprietor of all telecommunications media. Members of the press believe that the Government refuses to sign the Chapultepec Convention (on freedom of expression) because the Convention prohibits government monopolies of the media, which would be in direct violation of the 1977 law. The State leases the right to broadcast

to private enterprises but maintains the right to repossess the airwaves as it sees fit.

Over 200 private radio stations exist, including about 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited, as most persons cannot afford access to television. Broadcast media freely express a wide range of political viewpoints.

Credible reports indicate that the Government's inability or unwillingness to provide adequate security to media outlets and prominent members of the press has contributed to an increased sentiment of vulnerability among those members of the press who criticize the Government or Fanmi Lavalas.

According to employees of Radio Metropole, on February 11, Prime Minister Alex is publicly criticized the station for its coverage of rightwing leader Claude Raymond's death while in prison; however, none of the reported items were inaccurate.

On April 3, unknown persons killed radio commentator Jean Leopold Dominique and a security guard (see Section 1.a.).

On December 15 two youths killed sports broadcaster GERAL Denoze; the motive remained unknown at year's end.

Numerous anonymous death threats have been directed at journalists by name, including the entire news staff of Radio Vision 2000, which is known for its opposition to the Government. On April 5, Radio Vision 2000 journalists sent a signed letter to Justice Minister Camille Leblanc, in which they described "daily threats against their lives." They asked the Minister to ensure security for the radio staff and building. Following Jean Leopold Dominique's funeral on April 8, a group of at least 100 persons massed outside the station, threatening to attack it. The CIMO dispersed the crowd. A few days after Dominique's murder, Daly Valet, a Radio Vision 2000 journalist, went into hiding after receiving frequent and credible death threats. He fled the country. In June heavily armed, hooded men painted slogans on the wall of the station and threatened newsroom employees. In face of threats, Radio Galaxie suspended its news service the day after the November 26 elections. That same day Radio Vision 2000 joined Radio Galaxie in suspending its service following the receipt of threats. Radio Caraibes shut down its news service on December 23, after receiving threats to the station and personnel.

On April 4, hooded, armed men attacked the Radio Unite station in Artibonite province. They stole transmitters and destroyed much of the recording studios and electrical installations.

According to employees of Radio Echo 2000 in Petit Goave, on April 5, a group of armed men entered the station and threatened to burn the station down and kill the employees if they did not cease broadcasting. The police did not respond. In March a group of bandits beat one of the journalists, Elyse Sincere.

On April 17, presidential staff employee and information officer Guy Delva organized a march "to protest attacks against freedom of the press," coercing independent media to take part or else be stigmatized as antigovernment agitators. He also pressured news directors by telephone to cease broadcasting on April 17, lest they be branded as opponents of the event. Radio news sections sent representatives to the march in small numbers to avoid open defiance, but all refused to shut down their programming on April 17.

In May unknown persons destroyed radio and television stations in Petit-Goave.

In June a private radio station, Horizon PM, issued an open nationwide alert, noting that its editor and several of its employees had received anonymous verbal threats.

In August unknown persons hurled a fragmentation grenade at the National Television Building in Port-au-Prince. No one was injured.

On August 22, agents from TeleTimoun, the television station wholly owned by the FL, entered and offered the news staff quadrupled salaries, connected cell phones, and freedom from fear of future harassment to those Telemax employees who accepted the offer. All but one person accepted. The Telemax news service, previously the country's most objective and technically advanced, subsequently was staffed with Lavalas supporters and objective reporting ceased.

Foreign journalists generally circulated without hindrance from the authorities; however, in July police questioned, beat, and tortured a dual national journalist in her home (see Section 1.c.). The journalist identified the officers from a police lineup. The police commissioner who orchestrated the event was fired on other charges not related to this incident. At year's end, the Government had not apprehended, charged, or disciplined the officers, even though the victim had identified them.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for freedom of assembly, and the authorities generally respect this right in practice. In general, a variety of organizations were able to exercise this right without hindrance throughout the year. For example, on September 18, about 6,000 members of the Papaye Peasants' Movement marched from the central plateau town of Papaye to Hinche in an anti-Lavalas demonstration. According to observers, the police played a passive role, except at one point intervening to separate the demonstrators from pro-Lavalas supporters, and there was no confrontation.

However, in several instances police inaction allowed organized political militants to violate the right of freedom of assembly in practice, and there were numerous violent political demonstrations (see Section 1.a.).

Olivier Nadal, former president of the Haitian Chamber of Commerce, reported to the press that he and his family had received death threats, and that they had fled the country. He also had been threatened with arrest. Nadal was the organizer of a May 1999 rally of entrepreneurs, which was broken up by a band of unknown persons while the police stood by and did not intervene.

A peaceful, well-publicized demonstration scheduled for August 29 in Cap Haitien by the opposition Convergence Group never took place. According to local press reports, the Convergence Group decided to avoid confrontation with members of the pro-Lavalas OP, who moved into the area of the Cap Haitien Cathedral chanting antiopposition slogans.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion.—The Constitution provides for the right to practice all religions and faiths, provided that practice does not disturb law and order, and the Government respects this right in practice.

In many respects, Roman Catholicism retains its traditional primacy among the country's religions although Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church in numbers of members. Voodoo, a traditional religion derived in part from West African beliefs, is practiced alongside Christianity by a large segment of the population. While there are associations of voodoo practitioners and priests, there is no organized hierarchy or established voodoo church. Accusations of sorcery, particularly in rural areas, have been known to lead to mob violence resulting in deaths. Given the prevalence of voodoo in these areas, it appears likely that voodoo practitioners are targeted in some cases.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—The Government respects the right of freedom of movement within the country, foreign travel, emigration, and repatriation.

An unknown number of undocumented migrants put to sea during the year seeking better economic opportunities in other countries. The Government operated, with international support, the National Migration Office (ONM) to assist citizens involuntarily repatriated from other countries, including the Dominican Republic and the Bahamas. That office stopped providing humanitarian services to involuntarily repatriated migrants in June, and in August it stopped meeting and processing the migrants. Although the ONM office still exists, it no longer provides any services to repatriated migrants but conducts training courses. According to the International Organization for Migration, the Dominican Republic deports approximately 500 Haitians each month across the Border. At the end of August, a mass repatriation of approximately 3,000 Haitian nationals took place. There were reliable reports of separation of families and maltreatment of Haitians by Dominican soldiers during this period, as had been the case in 1999.

The Government has no policy regarding foreign nationals seeking refuge or asylum from third countries. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for regular elections for local and parliamentary offices and for the presidency. Rene Preval, who was elected in 1995 in an election regarded by the international community as free and fair, continued in office during the year. On May 21, a first round of long overdue senatorial, legislative, and municipal elections to fill vacant posts took place after repeated postponements. The CEP manipulated the results by its choice of a methodology for calculating the percentages in determining senate seats, by the faulty transmission of results, and by the arbitrary treatment of challenges which had an impact on the results of several races. A continuing standoff through the rest of the year between the Government and opposition parties led to an opposition boycott of a second round of legislative

elections in July and of the November 26 elections for president and remaining Senate seats. Elections to replace President Preval took place as scheduled on November 26.

The country's constitutional crisis continued through the first half of the year. The crisis began with the flawed local and parliamentary elections of April 1997 and Prime Minister Rosny Smarth's subsequent resignation. A stalemate between the President and Parliament continued through January 11, 1999, when the terms of office of the entire 85-seat House of Deputies and of all but 9 of the 27 members of Senate expired. In March 1999, President Preval negotiated an agreement with a coalition of five small opposition parties to form a Provisional Electoral Council to organize the overdue local and parliamentary elections. After many delays, these were fixed for May 21, with a second round on July 9.

There were scattered acts of violence in the months leading up to the election, as well as several politically motivated killings during the year (see Section 1.a.). On March 11, supporters of the ruling Fanmi Lavalas' candidate for deputy in the Delmas region physically attacked Serge Auguste, an opposition candidate. On March 17, Marie Laurence Jocelyn Lassegue, an opposition candidate running for Senate, was shot and injured while campaigning. On March 20, two men shot and injured Marcel Fils, an opposition party coordinator, in downtown Port-au-Prince. On March 27, unknown persons killed progovernment Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Samedi's murder led to further street violence later in the week, during which two persons were killed and at least three others, including a police officer, were wounded (see Section 1.a.). The HNP investigated their murders as politically motivated incidents.

Opposition leaders reported that while they participated in a proconstitution march on March 29, seven hostile FL supporters attacked them, shouting "Aristide or death," and other threats. The attackers brandished pistols and threw stones and one Molotov cocktail.

AI reported that a group of armed men attacked members of an opposition party as they handed out pamphlets in Port-au-Prince on March 29. On April 3, noted journalist Jean Leopold Dominique and one of his guards were shot and killed (see Section 1.a.). On April 4, Merilus Deus, an opposition senatorial candidate in Savanette was murdered (see Section 1.a.); the deputy candidate went into hiding. On April 6, the Grand'Anse BED legal adviser reported that several individuals forced their way into his house, dragged out his personal property and burned it. There was no sign of the HNP during this incident. On April 8, a group of pro-FL militants attacked and burned the headquarters of an opposition party. The FL denied involvement despite several credible reports that its supporters were responsible for the attack. On April 9, two regional opposition offices in Achaie and Aquin were burned and destroyed. On April 19, an opposition candidate for local office in suburban Port-au-Prince allegedly was kidnaped, but reappeared unharmed on May 3.

On May 21, about 60 percent of the country's 4 million registered voters went to the polls to select from some 29,000 candidates for 11,000 local and national posts. International and domestic observers agreed that despite some scattered irregularities (polling booth intimidation, ballot stuffing, and publication of voting results before polling booths were closed), the elections were generally free and fair. Two election-related deaths were reported in a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. On May 22, the HNP arrested and charged Paul Denis, an opposition party leader and former senator, for possession of illegal weapons. He later was released amidst allegations the arrest was motivated politically.

While the initial voting was generally free and fair, serious irregularities in the counting of votes and the computation of winners in certain senate races compromised the election. A December report by the Organization of American States (OAS) concluded that the voting process began to deteriorate after the closing of the polls. For example, armed groups stole and burned ballot boxes in the departments of the Center, North, and Artibonite. The delivery of voting materials (ballots, ballot boxes, pens, ink, and voter registration lists) in Port-au-Prince and Cap Haitien was chaotic and a substantial number of these materials may have been lost. The election controversy became serious with the publication of the results of the Senate races. Under the Constitution and electoral law, a candidate must receive an absolute majority of votes cast in order to be elected in the first round of voting. If no candidate receives a majority, a second-round runoff is required. The Senate results published by the CEP announced that the ruling Fanmi Lavalas party won 16 of the 17 Senate seats in the first round. These results were based on what opposition parties and independent observers termed a flawed interpretation of both the Constitution and the electoral law. Officials only counted votes cast for the top four con-

tenders in each Senate race, yielding what both international and local observers said were false FL victories. Percentages of votes were calculated imprecisely, by using the total of votes received by the top four contenders rather than the total of votes for all candidates. There were 20 to 30 candidates for Senate in each department. CEP President Leon Manus and two other members (all representing opposition parties) refused to certify the irregular results and resigned their posts. A preliminary evaluation conducted by the OAS found that only 9 Senate seats should have been decided in the first round, while 10 should have gone to a second round. President Preval responded to the three CEP resignations by appointing replacement council members loyal to FL, who immediately certified the Senate results without addressing the controversial counting method.

The international community, local civic groups, and opposition parties called on the Government to address the controversy. The CEP ignored these protests and on July 9, held second-round races for deputies. There were no senatorial second-round contests. With an almost unanimous boycott by opposition parties and candidates, voter turnout for this round was significantly lower than in May, at reportedly only 5 percent. All international and most domestic observers refused to participate in monitoring the second round.

Domestic human rights and opposition parties continued to protest the election results. Following his resignation, CEP president Leon Manus fled the country after being threatened repeatedly. He then issued a statement that acknowledged that the methodology used in counting votes for the Senate was flawed. On June 15 and 16, bands of pro-FL militants shut down metropolitan Port-au-Prince with barricades and tire burnings to protest international refusal to certify the results. International missions led by the OAS unsuccessfully attempted to encourage resolution of the May 21 elections dispute.

Despite local and international calls not to seat the Parliament before resolution of the election controversy, on August 28, Parliament was sworn in formally.

Violence escalated, particularly in Port-au-Prince, during the days before the November 26 elections for President and for replacements for the remaining nine Senators whose terms would expire in January 2001. While some of the violence was attributable to the political situation, for which the FL accused the opposition of responsibility and vice-versa, common crime was undoubtedly the source of many episodes; however, the violence contributed to an overall climate of intimidation.

On the evening of November 2, in Hinche heavily armed members of FL attacked a meeting being held by opposition political party leader Chavannes Jean Baptiste and injured seven persons. A few days later, the mayor of Port St. Louis fired shots into a seminar being conducted by a respected opposition politician.

Shootings and robberies became an almost daily occurrence in Port-au-Prince. On November 3, unidentified persons opened fire on an evening rush hour crowd, killed at least five, and wounded several others. That same day three bodies were found in another location. On November 4 and 5, three more bodies were found in yet another site. Also on November 4, at least one person was killed and another gravely wounded during a confrontation between rival gangs at another street intersection. Ongoing confrontation between rival gangs in the Port-au-Prince slum of Cite Soleil during the month of November resulted in numerous injuries and property damage. In general, the HNP did not respond to the confrontations.

On November 14, a group of approximately 500 pro-FL demonstrators rallied peacefully in front of a foreign Embassy to protest international pressure on former-President Aristide to bring about a negotiated solution to the political stalemate that had developed over the May 21 elections. The same day, a drive-by shooting killed one person in front of the *Le Nouvelliste* newspaper offices in downtown Port-au-Prince. That evening, residents panicked as unidentified persons in a pick up truck drove through several neighborhoods shooting at persons (injuring a number of them) and ordering persons off the streets.

On November 15, a clearly marked U.N. vehicle was hit in a drive-by shooting in Gonaives. No one was injured.

On November 22, nine separate explosions occurred in crowded areas of Port-au-Prince; the explosions killed two children and left many other persons injured. On November 25, marching FL members in Petit Goave staged citizen's arrests of several opposition members and detained several others. Also on November 25, an attempt was made during the evening to burn the communal electoral office (BEC) in Ganthiere. Police intervened and were able to save the electoral materials, although the building was partially destroyed.

The international community and most opposition parties refused to help or take part in the November 26 presidential elections because of the unresolved controversy surrounding the May elections. Due to the lack of international observers,

the local press monitored the election process. Several radio stations were forced to close their news operations because of threats (see Section 2.a.).

The November 26 elections took place amidst heavy police security and were characterized by low turnout—accounts vary from the 5 percent to 20 percent. Aside from a pipe bomb that exploded in the Port-au-Prince suburb of Carrefour and the burning of ballots during the morning in the city of Anse d'Hainault, the elections generally passed without disturbance. With the opposition boycott, former President Jean-Bertrand Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast.

In the days following the November elections, pro and anti government violence occurred again in the department of Grand-Anse. In the cities of Anse d'Hainault, Cotetaux, and Petite Riviere de Nippes, protest and violence led to the deploying of HNP units from Port-au-Prince, and in the case of Nippes, the Coast Guard, to restore order. Throughout the rest of the country, calm generally prevailed.

There are no legal impediments to women's participation in politics or government; however, they are underrepresented, and the low status of women limits their participation. The Election Law provides that the monetary deposit required of female candidates for political office is one-half that required of male candidates, if a recognized party sponsors them. Three of the 82 deputies are women, and there are 6 women among the 27 senators.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic and international human rights groups generally operate without government restrictions; however, threats and intimidation from unknown sources continued to increase during the year. Justice Minister Leblanc continued to seek dialog with some groups and solicited their recommendations on human rights issues such as police impunity and prosecution of police and former military suspected of committing human rights abuses. The number of groups that monitor human rights has grown, as has the scope of those groups; however, most monitoring groups are hampered by a lack of resources. Human rights organizations increasingly turn to issues that they have not addressed before, including prison conditions, the widespread lack of health facilities, and impunity for criminals.

Following the April 3 killing of Jean Leopold Dominique, members of the local human rights community, including the National Coalition for Haitian Rights (NCHR) and the Platform of Haitian Human Rights Organizations rallied in front of the Haiti Inter radio station. Self-described members of Fanmi Lavalas beat and shot at several participants. Riot police were on hand but did not protect the rally participants (see Sections 1.a. and 2.b.).

On September 6, men wearing police uniforms abducted, tortured, and killed Amos Jeannot, an employee of Fonkoze, a local NGO (see Section 1.a.). AI and local human rights organizations appealed to the HNP for a swift and thorough investigation. The investigation continued, but no arrests had been made by year's end.

There were no arrests or progress made in the investigation of the 1999 attempted murder of Pierre Esperance, NCHR country director. The HNP's investigation remains open but apparently inactive.

The difficult security climate remained unchanged. Organizations such as the NCHR, the Platform of Haitian Human Rights Organizations, the Human Rights Fund, and the Ecumenical Center for Human Rights reported receiving repeated threats, most of them anonymous.

The Office of the Protector of Citizens (OPC), an autonomous, ombudsman-like office provided for by the 1987 Constitution, was hampered by a cut in funds due to the Government's budget crisis. The OPC is one of the Government's four independent, autonomous institutions. Despite budgetary problems, the OPC conducted a number of seminars throughout the year, including over 20 seminars in schools, some in the Magistrates School, and others at the local and county levels of government. In February Dr. Louis Roy, the Director of the OPC, appointed Florence Elie to a 4-year term as Deputy Director. Dr. Roy was chosen as the Director by a commission of parliamentarians in conjunction with the President in 1995. However, his seven-year appointment only was ratified by Parliament in 1997.

The recently seated Parliament created a Justice and Human Rights Committee. The chairman of the committee said that his primary goal would be the improvement and reform of the judicial system. It is not clear whether the committee would also conduct human rights monitoring.

The mandate of MICIVIH expired on March 15. MICIVIH played a vital and successful role in monitoring the human rights situation and in promoting adherence to human rights norms by the authorities. The U. N. created a new entity, the International Civilian Mission for Support in Haiti (MICA), after MICIVIH's mandate

expired. MICAH's mandate began in March and is scheduled to expire on February 6, 2001. This new entity is much smaller in size and scope than MICIVIH. MICAH's mandate is limited to training in human rights and to conducting civic education courses. It does not conduct human rights monitoring.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1987 Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there is no effective governmental mechanism to administer or enforce these provisions.

Women.—The law provides penalties for rape and domestic violence; however, the authorities do not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse out of fear, shame, or lack of confidence in judicial remedies. A 1999 survey by UNICEF of violence against women found that 37 percent of women reported being victims of sexual violence or reported knowing a woman who had been. 37 percent reported

aape
pounter fVd violence againWo women
n- is
thelg cmg ade mar-
Hepenh,

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called “restavek” (which means “lives with” in Creole); families of these children frequently received financial compensation (see Sections 6.a., 6.d., and 6.f.). Most local human rights groups do not report on the plight of restavek children as an abuse nor seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation.

Port-au-Prince’s large population of street children includes many restaveks who have been sent out of employers’ homes or who are runaways. There is some anecdotal information indicating that children are involved in prostitution or being trafficked.

The Ministry of Social Affairs is aware of the problem, provides some assistance to street children. In 1998–1999 (last available data), they assisted 887 children. The Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children’s rights by conducting awareness raising activities. According to COHADDE, children work primarily in domesticity (restavek), but some are found working on the street, and some are involved in prostitution.

People with Disabilities.—The Constitution provides that disabled persons shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for the disabled. Although they do not face overt mistreatment, given the severe poverty in which most citizens live, those with disabilities face a particularly harsh existence. Disabled beggars are a familiar sight on the streets of Port-au-Prince and other towns.

National/Racial/Ethnic Minorities.—Some 99 percent of Haitians are descendants, in whole or in part, of African slaves who won their war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian society. Some of these animosities date back to before the country’s revolutionary period.

Racial distinctions tend to parallel social and economic strata. Mulattos, generally belong to the wealthiest classes of society. During the year, various political figures, including the President, used rhetoric indirectly targeting the mulatto segment of society. Mulattos historically have been targets of sporadic attack in many cases because they are perceived to be wealthy.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by about 20 percent of the population, including the economic elite. The inability to communicate in French long has limited the political and economic opportunities available to the majority of the population. The Government prepares most documents only in French, and judges conduct most legal proceedings exclusively in French. However, Creole is used in parliamentary debate in the Lower House of Parliament.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and the Labor Code provide for the right of association. An article of the 1987 Constitution, which supersedes the labor code, gives legal recognition to public sector employees. The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Social Affairs Ministry within 60 days of its formation in order to obtain legal recognition. The labor code does not require prior approval before any association is established. The Labor Code stipulates that “no labor union can be formed with less than 10 individuals.” Article 232 gives unions 60 days after formation to register with the Office of Personnel Management of the Ministry of Labor and Social Affairs.

Unions are independent of the Government and political parties. Nine principal labor federations represent about 5 percent of the total labor force of approximately 2,800,000 persons, including about 2 to 3 percent of labor in the industrial sector.

Teachers went on strike for several months in 1999 because they had been promised a 32 percent pay increase, later renounced by the Government. The Government denied that public school employees had a right to strike, suspended some teachers, and garnished the salaries of public school employees who participated in the strike. At year’s end, 19 teachers remained suspended. In October seven teachers, members of the CNEH, were reinstated. A total of 77 teachers were given financial penalties that amounted to the number of days they were on strike multiplied by 1/30 of their gross pay.

The labor code forbids strikes by public utility service workers. Article 209 of the Labor Code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." Managers, administrators, and other heads of establishments are not allowed to join labor unions and strike.

In August the Government issued rules governing the public school calendar for the 2000-01 academic year. The Ministry of National Education moved the opening date back about 3 weeks and reduced the number of holidays by 1 day, which added 1 month to the school year; teachers unions were not notified prior to the change nor given adequate opportunity to bargain prior to implementation. The unions criticized this unilateral change as an unfair labor practice and a violation of the contract they signed on June 28, 1999. In the wake of these confrontations, communication between the unions and the Government has been limited. Some unions hope to resurrect negotiations through mediators, while others expanded their lawsuit filed in 1999. While the school year started on schedule, less than 10 percent of students attended classes during the week of September 4. Approximately 15 percent of students did not return at all.

On May 15, about 300 technicians of the Government-owned telephone company (TELECO) went on a 1-day work stoppage to protest management's slow response in addressing employees' concerns regarding reductions of employee health insurance and pension benefits. TELECO management paid its arrears to the insurance fund, and promised to resume its contributions to the pension fund. However, it later dismissed four technicians in apparent retaliation.

On August 7, armed temporary employees walked into the TELECO headquarters and demanded the so-called 14th month salary, which is a bonus normally paid to full-time employees to pay for school fees. Temporary employees are normally not eligible. TELECO's offices in the greater Port-au-Prince area remained closed for 2 days, and telephone service was reduced. The police took control of the TELECO building and its environs to restore order. The bonus was not paid. The protestors resumed normal activity after some were fired, and others threatened. Using this incident as a pretext, management suspended payment of the traditional 1-month bonus to full-time employees paid 1 month before the school opening date.

In August workers at several factories in the Shodecosa Industrial Zone protested the minimum wage that they received. More than 40 workers were fired, and the protest gradually ended.

On September 11, public transport unions went on strike to protest the Government's decision to raise fuel prices. They ended their strike the following day. On October 3, public transport unions called for a general strike to protest the Government's failure to open a dialog on new fuel prices. The strike was not successful; drivers and owners of public transportation vehicles did not participate.

On October 2, the union of the electric company workers conducted a one-day sit-in inside the Ministry of justice compound. The Ministry promised workers police protection from angry residents while they are on the job. The workers were satisfied and returned to work.

Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. The Right to Organize and Bargain Collectively.—The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. The International Confederation of Free Trade Unions brought a complaint to the International Labor Organization (ILO) in September 1999, alleging that a utility company (Electricite d'Haiti) violated freedom of association in 1996 when it dismissed 30 leaders and more than 400 members of the Federation of Electricity Workers of Haiti, closed trade union offices by armed persons, and banned any meetings by trade union members in the company. Additional allegations in this case include the attempted murder of two trade union officials, and the arrests and assaults of other trade union leaders. The ILO had not received a response from the Government on these allegations by year's end, and the case remained unresolved. According to the current union (FESTRED'H) leaders, the 1996 union leaders and workers were dismissed permanently. The Government orchestrated a reorganization of the union and allowed it to function under new leadership. The workers are not fighting actively for reinstatement. Some retired, some left the country, and the rest attempted to find employment in other sectors.

Labor unions reported at least one killing, and several arrests during the year. On September 4, Elison Merzilus, a member of the Autonomous Central of Haitian

Workers (CATH), was taken from his home by a group of 10 armed men. He lived in the 7th Section of the Gros-Morne Commune, in the Artibonite Department. His body was found 2 weeks later, in a ravine located in the 8th Section of the Gros-Morne Commune. Merzilus was instrumental in forming a women's organization affiliated with CATH several days before his disappearance. Around the same time, 10 other union members were informed that their names were blacklisted and spent several months in hiding.

On December 19, the authorities arrested Wilson Duverson and Rigaud St.-Juste in the commune of Anse-a-Fleur, Northwest Department. They were subjected to severe beatings and other harsh treatment. The authorities released Duverson on January 8 and released St. Juste on January 18. Both are members of the Anse-a-Fleur Workers Organization for Recovery (OTRA).

Several leaders of major Labor Confederation leaders were subjected to persistent telephone threats and were given ultimatums to rally behind the FL.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly sector. The high unemployment rate and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts. The ILO has criticized the law for its failure to include a specific provision envisaging protection against antiunion discrimination at the time of hiring.

Collective bargaining continued to be nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better-than-average wages and benefits. However, frequent verbal abuse and intimidation of workers and organizers is a problem in the assembly (maquiladora) sector. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also report that while the vast majority of assembly sector workers are female, virtually all the supervisors are men.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor.—The Labor Code prohibits forced or compulsory labor for adults and minors; however, while such labor is not known to occur among adults, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The minimum employment age in all sectors is 15 years, with the exception of domestic service, where the minimum age is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also a legal provision for employment of children between the ages of 12 and 16 as “apprentices.” Fierce adult competition for jobs ensures that child labor is not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked on small family farms alongside their parents, even though the high unemployment rate among adults keeps children from being employed on commercial farms in significant numbers. In these as in many other areas, government agencies lack the resources to enforce the relevant laws and regulations effectively. The Labor Code prohibits forced or compulsory labor, which applies equally to minors; however, some children are forced to work as domestic servants (see Sections 5, 6.c. and 6.f.).

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*; families of these children frequently received financial compensation (see Sections 5 and 6.d.). A 1991 U.N. study cited this practice as an example of slavery in the 20th century. UNICEF estimated that 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice. According to a 1998 UNICEF study, the average *restavek* is between 11 and 14 years of age; however, more than 20 percent are between the ages 4 and 10, and more than 75 percent are girls. About 23 percent of these girls are raped by a host family member, and 15 percent of them become pregnant. About 77 percent of *restaveks* have never been to school. Among those who have, only 2 percent reach secondary school. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them with little nourishment, and frequently beat and abuse them. The law requires that *restaveks* 15 years of age and older be paid “not less than one half the amount payable to hired servant” to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most *restaveks* away from the home before the children reach the age of 15.

e. Acceptable Conditions of Work.—The legal minimum daily wage, established in June 1995 by the Tripartite Commission of Salaried Workers, whose six members are appointed by the President of the Republic, (two representatives each of labor, employers, and Government), is about \$1.52 (36 gourdes). Annually, a minimum wage worker would earn about \$473, an income above the national average but not sufficient to provide a decent standard of living for a worker and family. Some workers are paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens work in subsistence agriculture, a sector where minimum wage legislation does not apply. Many women work as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. The assembly sector published a voluntary code of conduct in April 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally pay the minimum wage or higher amount. However, the real value of the gourde has diminished, and workers are no longer satisfied with the minimum wage. Working conditions are also generally better in this sector. There are no reports of child labor in this sector. However, the Ministry of Social Affairs does not enforce work hours or health and safety regulations. There is no formal data, but unions allege that job-related injuries are prevalent in the construction industry and public works sectors. With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

f. Trafficking in Persons.—The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Rural families send young children to affluent city dwellers to serve as unpaid domestic labor; the families of such *restaveks* frequently receive monetary compensation (see Sections 5 and 6.d.). An estimated 300,000 children, 75 percent of them girls, may be victims of this practice.

There were no other reports of trafficking to, from, within, or through the country. However, there are anecdotal reports on the practice of families taking *restaveks* to Europe and the United States to continue using them as domestic servants.

HONDURAS

Honduras is a constitutional democracy, with a president and a unicameral congress elected for 4-year terms. President Carlos Roberto Flores Facusse of the Liberal party took office in January 1998. Since the country's return to democracy in 1982, the two major political parties, the Liberals and the Nationalists, both have held power after free elections. The judiciary is generally independent, but often ineffective and subject to outside influence.

The Honduran Armed Forces (HOAF) include the army, the air force, and the navy. The national Preventive Police (formerly a paramilitary force known as the FUSEP) were placed under civilian control in 1997. The police handle public security, counternarcotics, and border patrol duties. The Government created a Ministry of Security in 1998 to oversee police operations and counter a national crime wave. In November the Government authorized the use of joint armed forces and police patrols throughout the country to combat rising levels of crime. The Government has used the military to patrol the streets seven times in the last 6 years. In January 1999, the National Congress ratified a constitutional amendment that established direct civilian control over the armed forces—through a civilian Minister of Defense—for the first time since 1957. The amendment also replaced the position of the armed forces commander in chief with that of Chief of the Joint Staff. In July 1999, the President replaced the Chief of the Joint Staff, the Vice Chief of Staff, and other senior HOAF officers after they sought, without prior authorization from the civilian leadership at the Defense Ministry, to have the Congress amend a draft organic law to govern the HOAF; that action further cemented civilian control of the military. A number of versions of the draft law regulating responsibilities between the Defense Ministry and the HOAF were debated during the year; at year's end, Congress had not passed legislation. Members of the police continued to commit human rights abuses.

The market-based economy is based primarily on agriculture and, increasingly, on the important maquiladora (in-bond processing for export) industry, which accounts

for approximately 130,000 jobs, most of which are filled by young women. The HOAF play an indirect, diminishing role in the national economy through their pension fund, which controls some enterprises usually associated with the private sector, including a bank and several insurance companies. About 39 percent of workers labor in agriculture, with most of the rest in industry and manufacturing, commerce, and services. The principal export crops are coffee and bananas; these, along with "value added" income from the maquiladora industry, are the leading sources of foreign exchange. Nontraditional products, such as melons, pineapples, and shrimp, play a growing role in the economy. In 1998 Hurricane Mitch caused widespread flooding and landslides and over \$3 billion in damage, and led to an economic recession during 1999. Most affected export sectors have recovered, and the economy experienced positive growth during the year. The Central Bank estimated growth for the year at between 5.3 and 5.5 percent. Annual per capita income is approximately \$800; about two-thirds of the country's households live in poverty.

The Government generally respected the human rights of its citizens; however, serious problems remained. Members of the security forces committed some extrajudicial killings. Human rights groups accused the security forces and the business community of colluding to organize "death squads" to commit extrajudicial killings. Security force personnel committed acts of torture, and beat and otherwise abused detainees and other persons, including street children. Prison conditions remain harsh, lengthy pretrial detention is common, and detainees do not always receive due process. Considerable impunity for members of the economic and official elite, exacerbated by a weak, underfunded, and often corrupt judicial system, contributed to human rights problems. Although the civilian courts increasingly considered allegations of human rights violations or common crimes against armed forces personnel, and some cases went to trial, there were relatively few convictions. While no senior Government official, politician, or bureaucrat, or member of the business elite, was convicted of crimes, the Government removed more than 100 military officials, police officers, police agents and investigators, and judges from office on corruption and other charges. The judicial system continued to deny swift and impartial justice to prisoners awaiting trial. On occasion the authorities conducted illegal searches. Individual members of the news media suffered various forms of harassment, including attempted murder and physical assaults. Other human rights problems included violence and societal discrimination against women, child prostitution, abuse of street children, and discrimination against indigenous people. The Government does not enforce effectively all labor laws. Some workers are forced to work overtime. Child labor is a problem, particularly in rural areas and in the informal economy, but not in the exportprocessing sector.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political killings by government agents; however, the security forces were suspected of an estimated 200 extrajudicial killings, many involving persons under 18 years of age, during the year. Human rights groups alleged that individual members of the security forces worked with civilian (including vigilante) groups and used unwarranted lethal force against supposed habitual criminals or suspected gang members. Several groups pushed for investigations into specific incidents, while others claimed to have provided public prosecutors with evidence of collusion between police elements Goveovideticithiwarranted

”
”

extrajudicial killings between 1998 and 2000. In October Covenant House filed a complaint with the Inter-American Commission on Human Rights (IACHR) stating that 360 street children were killed from 1998 through October 2000. In 1997 Covenant House brought charges before the Public Ministry against unnamed members of the armed forces and the police for the alleged torture of 63 juveniles or minors, 35 of whom reportedly were murdered, since 1990. The Government took no action in this instance.

The case of a prison guard who shot and killed a minor who refused to surrender after escaping from the central penitentiary in Tegucigalpa in May 1999 went to trial during the year; however, no further information was available.

Human rights organizations continued to allege that individual members and former members of the security forces, acting in collusion with business leaders, committed extrajudicial killings of street criminals. They also charged neighborhood watch ("vigilante") groups with the responsibility for many extrajudicial executions. On various occasions during the year, the Public (Justice) Ministry and the National Human Rights Commission (NHRC), an autonomous government entity, publicly admitted that individual government employees might be taking part in such executions; however, the Government asserted that the individuals were acting without official authorization.

There was no progress in the investigation of the March 1999 murder of Juan Ramon Alvarado, the late mayor of Cabanas in Copan department. Two suspects previously detained were released in 1999 due to lack of evidence.

In September the Third Court of Appeals issued an arrest warrant for Jaime Raudales, a former member of the now-disbanded Army Intelligence Battalion 3-16, for the 1988 murders of social activists Miguel Angel Pavon and Moises Landaverde.

Also in September, a government team exhumed the remains of four persons from a cemetery in Olancho department; these were the first official exhumations by the Government (see Section 1.b.).

There were several developments in the investigation of the 1982 murder of Nelson MacKay Echevarria. During the year, a court charged Colonel Wilfredo Leva Cabrera with the killing. Leva Cabrera, who is in prison on a drug trafficking conviction, requested protection under the Amnesty Law; however, during the year the Supreme Court overruled a lower court decision and rescinded amnesty protection for Leva Cabrera in this case. At year's end, the murder charge was being initiated in a criminal court. At year's end, former military official Alexander Hernandez Santos was being tried for the murder of MacKay, as well as other crimes related to human rights abuses.

In March Major Manuel de Jesus Trejo Rosa, who for 5 years had been a fugitive from justice, surrendered voluntarily to the authorities, who remanded Trejo Rosa to a prison hospital. In May the court indicted him for the murder of MacKay; he also was indicted for the kidnaping and torture of Miguel Francisco Carias, as well as the 1982 kidnaping and torture of six university students (see Section 1.c.). In June the court released Trejo Rosa from the prison hospital but ordered him placed under house arrest due to his age and infirmity.

In February the First Court of Appeals acquitted Captain Billy Joya Amendola of the 1982 murder of university student Hans Madisson. The Public Ministry appealed this decision to the Supreme Court in March. In October a court issued an arrest warrant for Joya Amendola in connection with the 1982 kidnaping and torture of six university students (see Section 1.c.).

There was no information available regarding the Public Ministry's appeal of an October 1999 ruling by a lower court that found former army chief of staff Oscar Hernandez Chavez not guilty of the 1982 murder of university student Hans Madisson.

In July the Third Court of Appeals acquitted retired General Daniel Bali Castillo, retired Colonel Manuel Enrique Suarez Benavides, and retired police Major Marco Antonio Matute Lagos of the 1982 deaths of Adan Avilez Funez and Nicaraguan citizen Amado Espinoza Paz. The Public Ministry filed appeals of these decisions with the Supreme Court, which had yet to rule on the appeals at year's end. The Supreme Court is required to confirm the ruling of the Third Court of Appeals for a full acquittal; it had not done so by year's end. Other former military officials, including Alexander Hernandez Santos (who was in prison and being questioned about this incident at year's end), still face charges in this case.

In September a court sentenced police officer Jose Raul Bonilla Velasquez to 15 years' imprisonment for the murder of Jose Alejandro Molina. The court acquitted police officer Jose Alfredo Leiva in the same case.

In November a court sentenced Oscar Esmelin Rivera to 20 years in prison for the October 1998 killing of Pedro Garcia Villanueva, the director of Public Ministry attorneys in Santa Barbara department. Garcia had been investigating alleged

human rights violations and other criminal activities in the region at the time of his death.

In February the Public Ministry named a special prosecutor to continue its investigation of the 1998 murder of Carlos Antonio Luna Lopez, a town councilman in Catacamas, Olancho department. A suspect in the murder of Luna Lopez, Oscar Aurelio "Machetillo" Rodriguez Molina, subsequently was brought before a court, which in March conducted a "reenactment" of Luna Lopez's murder. Several other suspects remained at large at year's end.

Homicides, armed robberies, and other violent assaults remained commonplace. Violent crime continued to fuel the growth of private—often unlicensed—guard services, and of volunteer groups that patrolled their neighborhoods or municipalities to deter crime. In February the Security Ministry authorized the creation of approximately 500 neighborhood watch groups, known as Citizen Security Councils (CSC's), around the country to assist the police in combating rising crime. Human rights groups during the year criticized the CSC's, which they viewed as active participants in the increasing number of extrajudicial killings. However, in June National Human Rights Commissioner Leo Valladares stated publicly his belief that the CSC's were not acting as vigilantes or "death squads." The continued proliferation of private security forces and CSC's nonetheless made it more difficult to differentiate among homicides that may have been perpetrated by government security personnel, private vigilantes, or common criminals. In October the Government ordered all private security firms to turn in assault rifles, even if acquired legally, in an effort to decrease the availability of weapons to criminals.

Vigilante justice allegedly led to the killing of known and suspected criminals, as well as of street children (see Section 5). The Preventive Police claimed to have investigated 382 of 410 known killings since 1997, concluding that all police personnel accused of involvement in such incidents had been placed at the disposition of the courts, except for 1 fugitive.

Several "murders for hire" occurred during the year, usually related to land disputes or criminal activities. In February the police arrested Johnny Orlando Funez Funez and Jose Antonio Galdamez for the murder of social activist Jairo Amilcar Ayala Nunez in Lanza, Colon department over a land expropriation case. Also in February, four unidentified gunmen killed community leader Ruben Elvir in El Camalote, Santa Barbara department. Also in February, unknown assailants killed Marciano Martinez Ramirez and Victor Manuel Almendares, the president and the treasurer, respectively, of a forestry cooperative in Lepaterique.

In March four members of the Chorti indigenous group, Vicente Arias, Enecon Arias, Antonio Garcia, and Balbino Hernandez died during a gun battle in Copan. Ines Mejia and Wilfredo Bueso were arrested for the murders; a third assailant died during the gun battle. Indigenous activists claimed that the group was killed in a dispute over tribal lands; however, the police asserted that the killers and their victims were members of rival criminal gangs involved in the contraband trade (see Section 5).

In April two gunmen killed Concepcion "Chonillo" Alvarez and three members of his family in Choluteca over a local land dispute; no one has been arrested in this case. Also in April, the authorities arrested Julio Cesar Espinoza Mejia for the murder of Copan mayor Hugo Alvarado over another land dispute.

b. Disappearance.—There were no reports of politically motivated disappearances.

Various witnesses, survivors, and former HOAF personnel have charged that members of the now-disbanded army Intelligence Battalion 3-16 kidnaped, tortured, and killed many of the 184 persons who disappeared during the 1980's. The Public Ministry and the National Human Rights Commission kept open their investigations of those disappearances.

In February the Public Ministry filed an appeal of a December 1999 decision by a lower court that freed former police intelligence director Carlos Roberto Velasquez Ilovaes in the 1988 disappearance of leftist activist Roger Samuel Gonzalez Zelaya. The appeals court had not ruled on this petition at year's end.

On June 26, the Supreme Court ruled that illegal detention and execution committed by military officials were not covered by the 1987 Amnesty law (see Section 1.e.). This ruling allows for the criminal prosecution of the military officers accused of the 1982 kidnaping and torture of six leftist university students (see Section 1.c.).

In September a government team of forensic experts from the Public Ministry and local officials exhumed the remains of four persons from a cemetery at Dulce Nombre de Culmi in Olancho department. The four persons were believed to have been guerrillas who died during a firefight with HOAF personnel in 1983. Government forensic experts planned to conduct DNA testing on the remains of the four persons in an effort to verify their suspected identities; those efforts continued at

year's end. Human rights activists noted that these were the first official exhumations by the Government.

Following charges brought by human rights groups to the IACHR beginning in 1986, in November the Government made compensatory payments totaling approximately \$1,580,000 (23,800,000 lempiras) to the families of 17 persons who disappeared between 1981 and 1989. The human rights groups then dropped their charges before the IACHR. The suspected perpetrators of those disappearances remain subject to criminal prosecution in the future, but these payments freed the Government of further civil liability in these 17 specific cases. Some human rights activists publicly criticized as inappropriate the presence among the group of 17 families receiving payments of the NGO Committee of Families of the Detained-Disappeared of Honduras (COFADEH) general coordinator Bertha Oliva de Nativi, and of Andres Pavon, president of the Committee for the Defense of Human Rights in Honduras (CODEH), since the relatives of the other 167 persons who disappeared during this time period have not received justice nor any financial recompense.

The courts adjudicated several pending cases involving disappearances (see Section 1.a.).

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—The Constitution prohibits torture; however, there were isolated instances in which officials employed such practices. In addition, police beatings and other alleged abuses of detainees remained a problem. The police also engaged in violence, which included beatings, against street children (see Section 5). During the year, a court in San Pedro Sula ordered the imprisonment of four police officers accused of wounding a woman in a vehicle that they allegedly attempted to stop in late December 1999. On March 30, the authorities detained the officers.

In February Special Prosecutor for Human Rights Wilfredo Flores charged publicly that police officers routinely protected torturers and other human rights abusers in their ranks. In March DGIC Director Wilfredo Alvarado denied that DGIC agents tortured or abused prisoners. In May Preventive Police Director Alvaro Flores Ponce made a similar declaration regarding the Preventive Police. In October the Preventive Police were singled out in Amnesty International's annual report for their use of "torture and excessive force."

During the year, the Ministry of Security revised the procedures for internal review of police abuse and misconduct, partly as a result of public pressure from human rights groups and the Public Ministry, which in the past had reported that the Preventive Police's reviewing office was unresponsive to their requests for impartial investigations of police officers accused of abuse. The police force, which includes the Preventive Police and the DGIC, is subject to investigation by the Internal Affairs office regarding public complaints of police behavior; the Internal Affairs office reports to the Minister of Security. The Preventive Police and the DGIC each have an Office of Professional Responsibility (OPR), which conduct internal reviews of police misconduct such as off-duty criminal conduct and ethics violations. An OPR ruling is reported to the Minister of Security, who can take disciplinary action or direct a supervisor to decide upon disciplinary action for minor infractions. Some human rights groups indicate that the new system has increased impartial judgments of police behavior.

Both the DGIC and the Preventive Police suspended or dismissed numerous agents and officers for corruption and abuse of authority during the year. The Public Ministry reported that it received 697 complaints of police abuse through August, compared with 421 complaints during 1999. The authorities dismissed more than 100 police officers and DGIC agents during the year, compared with nearly 400 officers and agents in 1999. The authorities accused 16 police and DGIC agents of torture and other abuses, and charged 4 persons with corruption and abuse of authority during the year. For example, in October the DGIC fired chief administrative officer Armando Espinal for alleged corruption, and a lower court issued an arrest warrant for former FUSEP Director Julio Cesar Chavez Aguilar for profiting from noncompetitive FUSEP purchases during his tenure as director.

In February the HOAF announced that three army officers would be tried in courts-martial for having beaten and threatened eight recruits in January in an effort to recover a missing weapon. The Defense Minister, the HOAF chief of the joint staff, and other senior officers met with the president of CODEH, the country's leading human rights NGO, to review this incident, which also led the HOAF to create a Directorate of Humanitarian Law to investigate future human rights abuses within the HOAF. Also in February, the Defense Ministry appointed a civilian as its chief financial officer in an effort to counter a history of corruption among former HOAF paymasters and announced that it would cooperate with investigations by private human rights groups of alleged abuses of authority by HOAF personnel. In March the HOAF inaugurated mandatory human rights training for its majors and

captains. In September the Defense Ministry signed an agreement with the Inter-American Institute for Human Rights to provide human rights training for the HOAF.

In May Manuel de Jesus Trejo Rosa was indicted in the 1982 kidnaping and torture of six leftist university students, as well as for the kidnaping of Miguel Francisco Carias and the murder of Nelson MacKay Echevarria (see Section 1.a.). Trejo Rosa surrendered to the authorities in March; he remained under house arrest at year's end.

On June 26, the Supreme Court ruled that illegal detention and execution committed by military officials were not covered by the 1987 Amnesty Law (see Section 1.e.). This ruling allows for the criminal prosecution of the military officers accused of the 1982 kidnaping and torture of the university students. Seventeen current and former military and police officials continued to face simultaneous criminal and civil charges in various courts. As a result of the Supreme Court's decision, amnesty laws are no longer applicable for: Alexander Hernandez, Juan Blas Salazar Meza, Manuel de Jesus Trejo Rosa, Juan Evangelista Lopez Grijalba, Captain Billy Hernando Joya Amendola, retired General Amilcar Zelaya Rodriguez, Juan Ramon Pena Paz, Roberto Arnaldo Erazo Paz, Jorge Antonio Padilla Torres, and Julio Cesar Funez Alvarez (the current deputy director of the Preventive Police).

In September the First Court of Appeals once again issued arrest warrants for Raymundo Alexander Hernandez Santos and for Julio Cesar Funez Alvarez. In September the Supreme Court ruled against a petition by the Public Ministry for the preventive detention of Joya Amendola for the 1982 kidnaping and attempted murder of the six university students. In October the First Court of Appeals issued additional arrest warrants in this case for Billy Joya Amendola, Amilcar Zelaya Rodriguez, and Manuel de Jesus Trejo Rosa. At year's end, Hernandez Santos, who turned himself in voluntarily, was detained for questioning regarding his involvement in the case.

In 1998 the Supreme Court had ruled that the country's amnesty laws protected Juan Blas Salazar Meza from prosecution for the 1982 kidnappings. The June Supreme Court decision overturned that decision. Salazar Meza is serving a 5-year prison sentence for narcotics trafficking. In September the First Court of Appeals reinstated an arrest warrant for Salazar Meza, sought by the Public Ministry in connection with the 1982 cases as a first step to bringing him to trial.

In September a judge issued a warrant for the arrest of retired General Amilcar Zelaya Rodriguez, the owner of the property in the Amarateca Valley of Francisco Morazan department where the 1982 incidents occurred. An appellate court upheld the arrest warrant for Zelaya in October.

In August a separate court ruling absolved Captain Billy Joya Amendola of all charges in the 1982 torture of newsman Oscar Reyes Baca and his wife, Gloria de Reyes (see Section 2.a.).

The police forces are underfunded and understaffed, and corruption is a problem. Widespread frustration at the inability of the security forces to prevent and control crime, and the well-founded perception that corrupt security personnel were complicit in the high crime rate, led to continued support among a segment of the general public for vigilante justice (see Section 1.a.).

In August Security Minister Gautama Fonseca dismissed Preventive Police Deputy Director Wilfredo Urtecho Jeamborde and DGIC Deputy Director Saul Bueso Mazariegos from their posts. Human rights and civic groups noted the dismissals, since both Urtecho Jeamborde and Bueso Mazariegos have been suspected in the past of profiting from a variety of illegal enterprises. The Public Ministry reportedly was investigating both individuals at year's end for possible prosecution.

Prison conditions remained harsh. Prisoners suffered from severe overcrowding, malnutrition, and a lack of adequate sanitation, and allegedly were subjected to various other abuses, including rape. The 27 penal centers held over 11,500 prisoners, more than twice their maximum capacity; more than 90 percent of all prisoners were awaiting trial for an average of 22 months, with some waiting over 5 years (see Section 1.d.). Prison facilities are overcrowded, and pretrial detainees generally are not separated from convicted prisoners. Prison security was poor. Contrary to the previous year, the Government did not send the army in to any prisons to maintain order during the year. Retired military officers do work as guards in some areas, and some Preventive Police are used as guards. Prison disturbances, caused primarily by harsh conditions, occurred throughout the year, although at a lesser rate than in 1999, due to increased manpower and training of prison personnel. On March 27, a fight at the San Pedro Sula prison left one prisoner dead and five prisoners and guards wounded. Following the fight, the authorities transferred 181 prisoners to HOAF facilities. Prison escapes, through bribery or otherwise, remained a

frequent occurrence. Prison guards shot and killed one escaping prisoner during the year; there were no other serious injuries to escaping prisoners.

More often than not, for lack of alternative facilities, wardens housed the mentally ill and those with tuberculosis and other infectious diseases among the general prison population. Prisoners with money routinely bought private cells, decent food, and permission for conjugal visits, while prisoners without money often lacked basic necessities, as well as legal assistance. The prison system budgets about \$0.40 (6 lempiras) per day for food and medicine for each prisoner. Prisoners were allowed visits and in many cases relied on outside help to survive, as the prison system could not provide adequate or sufficient food.

In June 1999, the Public Ministry signed an agreement with the Center for the Prevention, Treatment, and Rehabilitation of Victims of Torture and their Relatives to establish programs to protect the human rights of prisoners; to train police and prison personnel to avoid committing acts of torture; and to arrange for periodic inspections of prisons. These programs continued during the year. In February a Tegucigalpa court ordered the central prison in the capital to suspend disciplining prisoners because of widespread reports of abuse, and instructed prison authorities to develop a plan to stop the alleged abuses. In September the Security Ministry and CODEH agreed to collaborate on a national plan to provide human rights training to prison guards and to rehabilitate the prison population through formal education and vocational training.

In July the Government announced that it would build a model prison farm in the Sula Valley at a cost of \$15 million (225 million lempiras). The 1,500-bed penitentiary, scheduled to open in 2002, would be one of several to be built to relieve overcrowding and promote rehabilitation within the country's antiquated penal system.

Women generally were incarcerated in separate facilities under conditions similar to those of male prisoners; however, female prisoners do not have conjugal visit privileges.

The Government operates juvenile detention centers in Tamara, El Carmen, and El Hatillo; all are located in or near Tegucigalpa or San Pedro Sula. This lack of juvenile detention facilities contributed to the detention of minors in adult prisons and to vigilante violence against, and police abuse of, street children (see Sections 1.a. and 5). In February Covenant House alleged that 800 juvenile criminals have been housed in adult prisons since 1995. Street children in detention sometimes were housed in adult prisons, where they were abused routinely. However, in May Covenant House made public its judgment that the Government no longer routinely houses juvenile offenders in adult prisons. In October the IACHR ordered the Government to make compensatory payments to 300 juvenile offenders who served time in adult prisons from 1995 to 1999. In April the Government announced plans to permit juvenile criminals to pursue an education while in prison.

The Government permits prison visits by independent human rights monitors.

d. Arbitrary Arrest, Detention, or Exile.—The law provides for protection against arbitrary arrest and detention; however, the authorities occasionally fail to observe these legal requirements. The law states that the police may arrest a person only with a court order, unless the arrest is made during the commission of a crime, and that they must clearly inform the person of the grounds for the arrest. By law the Preventive Police cannot investigate crimes; that force only detains suspects. The police must bring a detainee before a judge within 24 hours; the judge then must issue an initial, temporary holding order within 24 hours, make an initial decision within 6 days, and conduct a preliminary investigation to decide whether there is sufficient evidence to warrant further investigation.

While bail is legally available, it is granted primarily for ostensibly medical reasons; however, procedures in such cases are confused and unclear. Poor defendants, even when represented by a public defender, seldom are able to take advantage of bail (see Section 1.e.). Lengthy pretrial detention is a serious problem; in March an independent study estimated that 92 percent of prisoners were awaiting trial, some for over 5 years. The average length of detention was approximately 22 months, and over 90 percent of all prisoners had been neither tried nor sentenced (see Section 1.c.).

The 1996 Unsented Prisoner Law mandates the release from prison of any detainee whose case has not come to trial and whose time under detention exceeds the maximum prison sentence for the crime of which he is accused. This law also authorizes the parole until trial of persons over the age of 60 accused of nonfelony crimes, women who are pregnant or lactating, and the mortally ill. In April the Government estimated that as many as 3,017 prisoners qualified for release under the Unsented Prisoner Law, that 3 officers were required to monitor each person,

and that the annual cost of enforcing this law was approximately \$6.7 million (100 million lempiras).

However, despite this law, many prisoners remain in jail after being acquitted or completing their sentences, due to the failure of responsible officials to process their releases. A significant number of defendants served the maximum possible sentence for the crime of which they were accused before their trials were concluded, or even begun. For example, a man arrested in August 1997 was released without a trial in October 1999, while his two alleged accomplices, who also were arrested in August 1997, were released without trials in October 2000. In September the authorities released a man who had been exonerated of all charges 6 days after his arrest in July 1998. Also in September, the authorities released another man who had been detained without a trial since April 1996. In October the authorities released one prisoner who was arrested in June 1991, and then ordered freed in March 1995.

Neither the Constitution nor the Legal Code explicitly prohibits exile, but it is not used as a means of political control.

e. Denial of Fair Public Trial.—The Constitution provides for an independent judiciary; however, the judiciary is poorly staffed and equipped, often ineffective, and subject to outside influence. While the Government respects constitutional provisions in principle, implementation has been weak and uneven in practice. A number of factors limit the effectiveness of the system. Both the judiciary and the Public Ministry suffer from inadequate funding; low wages and lack of internal controls make law enforcement officials susceptible to bribery; the civil law inquisitorial system is both inefficient and opaque; and powerful special interests still exercise influence and often prevail in the courts. Approximately 35 percent of the complaints received by the National Human Rights Commission concern the judicial system. Many leading politicians enjoy constitutional immunity.

The court system is composed of a 9-member Supreme Court, 10 appeals courts, 67 courts of first instance with general jurisdiction, and 325 justice of the peace courts with limited jurisdiction. Congress elects the nine Supreme Court justices and names the president of the court; the Supreme Court, in turn, names all lower court judges. The 4-year term for justices of the Supreme Court coincides with those of the Congress and the President.

The Constitution provides for the right to a fair trial; however, the written, inquisitorial trial system is labor-intensive, slow, opaque, and does not protect the rights of defendants adequately. In December 1999, the Congress passed a law to modernize the Criminal Procedures Code; this new law, which is scheduled to take full effect in February 2002, substitutes an adversarial system for the inquisitorial system and mandates a speedier disposition of cases. The new law is designed to change the code into one based upon the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits incarceration without first receiving a clear sentence from a judge or tribunal.

Judges legally are in charge of investigations, as well as of trials and sentencing. Under the 1984 Code of Criminal Procedures, judges, the police, public officials, and individual citizens can initiate criminal proceedings. As many as 80 percent of the cases reported to the police are never referred to the criminal justice system, but instead are settled administratively by the police or by municipal courts. A judge may jail an accused person for 6 days before a determination is made of probable cause to accept charges. If a judge sustains the criminal accusation, the accused remains in jail, or may be released on bail while awaiting trial (see Section 1.d.).

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State, if necessary, and to appeal. Although the Constitution recognizes the presumption of innocence, the criminal code in practice often is administered by poorly trained judges operating on a presumption that the accused is guilty; consequently, the rights of defendants often are not observed. All stages of the trial process are conducted in writing and, at the judge's discretion, may be declared secret and, thus, even less "public" than normal.

Defendants and their attorneys are not always genuine participants in the process, despite rights accorded under law. Defendants may confront witnesses against them and present evidence on their own behalf, but only through the judge. By law defendants and their attorneys are entitled to review government-held evidence relevant to their cases, but this right is not always respected in practice.

A public defender program provides assistance to those unable to afford an adequate defense. There are 137 public defenders providing free legal services nationally to 37 percent of the prison population; however, public defenders are hard pressed to meet the heavy demands of an unautomated, inadequately funded, and labor-intensive criminal justice system. The Supreme Court issued an instruction in 1998 that holds judges personally accountable for reducing the number of back-

logged cases, and separates judges into pretrial investigative judges and trial and sentencing judges. The Court also created a program to monitor and enforce compliance with these measures. The Court's instruction was intended to ensure more effective protection for the rights of the accused to a timely and effective defense, but it has had little effect.

Modest progress was made in previous years towards implementing a judicial career system to enhance the qualifications of sitting judges; depoliticize the appointment process; and break the subcultures of corruption, clientism, patronage, and influencepeddling within the judiciary. Nonetheless, many courts remain staffed by politically selected judges and by unqualified clerks who are inefficient and subject to influence from special interests. The reforms have not been implemented fully.

On April 7, the National Human Rights Commissioner released a report that alleged political interference and corruption within the judiciary. The Supreme Court filed a lawsuit against Valladares, and charged him with engaging in "corruption, extortion, and blackmail;" however, the Supreme Court later dropped its charges (see Section 4).

On May 2, President Flores issued a decree that created a special commission to draft recommendations for improving the judicial system. On September 19, the commission presented recommendations to the President. The Government incorporated many of these recommendations into a constitutional amendment that was presented to Congress on October 3. Congress passed the amendment on December 20; it must approve it a second time in the 2001 session.

On November 7, the Supreme Court announced that it is investigating 500 civil, criminal, administrative, and labor judges in an anticorruption effort. According to press reports, at least 100 judges have been charged with corruption or fired for judicial indiscretions in the past 3 years.

Elements of the armed forces withheld their cooperation from official efforts to track down military officers wanted in connection with alleged human rights abuses dating back to the 1980's. The Supreme Court considered throughout the past decade whether legal amnesties adopted in 1987, 1990, and 1991 for crimes committed during the 1980's covered the military, as political deliberations in the Congress had suggested. In 1998 the Court determined that while the amnesty laws were constitutional, amnesty appeals would have to be decided on their individual merits. On June 26, the Court ruled that laws providing amnesty protection to present and former military officials were inapplicable to common crimes, such as illegal detention and homicide, which some officials were alleged to have committed. At the request of the Public Ministry, on August 1, the Court clarified that its June ruling applied only to the specific case (the 1982 kidnapping and torture of six university students) under consideration (see Section 1.c.), and that the amnesty laws would continue to apply to all military defendants until the prosecutor in a specific case established the grounds for the exclusion of amnesty for the accused in that case. Thus, military officials still may benefit from the amnesty laws, but the Public Ministry now has the right to challenge the applicability of those laws to specific investigations of past human rights abuses.

Many leading politicians enjoy constitutional immunity from prosecution because of their membership in either the National Congress or the Central American Parliament. That immunity extends to acts committed before taking office. Only the National Congress can deprive a protected person of his immunity: such a person lacks the legal capacity voluntarily to surrender his immunity. In April the Congress passed a General Law of Immunities that reduced the number of government positions with immunity from an estimated 1,250 to less than 200 positions. The new law continues to require a vote of Congress to deprive an individual protected under the law of his immunity, but it permits certain civil suits to be brought against such an individual without regard to his position in the Government. In March Attorney General Roy Medina declared that military amnesties and the political immunity of political leaders combined to make impossible the prosecution of such individuals for alleged past and present crimes.

Over the past 6 years, the Public Ministry has taken steps to investigate and charge not only military officers for human rights violations, but also ranking officials of the two previous governments, for abuses of power, fraud, and diversion of public funds and resources. However, at year's end, very few of those accused had been tried or convicted.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The Constitution specifies that a person's home is inviolable, that persons in the employ of the State may enter only with the owner's consent or with the prior authorization of a competent legal authority, and that entry may take place only between 6 a.m. and 6 p.m., or at any time in the event of an emergency or to prevent the commis-

sion of a crime. However, as in previous years, there were credible charges that police personnel failed at times to obtain the needed authorization before entering a private home. Coordination among the police, the courts, and the Public Ministry remained weak. The Government respects the privacy of correspondence.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press.—The Constitution provides for freedom of speech and of the press, and the authorities largely respected these rights in practice. However, journalists admitted to self-censorship when their reporting threatened the political or economic interests of media owners. A small number of powerful business magnates whose business interests, political loyalties, and family ties often intersect own many news media. Systemic national problems, such as corruption and conflicts of interest, also have limited the development of the news media. For example, three of the four national newspapers are run by presidential candidates or their close family members. Reporting of events, particularly those related to elections, is subject to editorializing.

The Government has various means to influence news reporting of its activities, such as the granting or denial of access to government officials, which is crucial for news reporters, editors, and media owners alike. Other methods are more subtle, such as the coveted right to accompany the President on his official travels. Journalists who accompany the President on such occasions do so at the expense of the Government, which grants or withholds invitations for such travel at will.

The comparatively little investigative journalism that took place focused on uncontroversial issues, such as illegal immigration. When the news media attempted to report in depth on national politicians or official corruption, they continued to run into obstacles, such as external pressures to desist from their investigations, artificially tight reporting deadlines, and a lack of access to Government information and independent sources.

The news media also continued to suffer from internal corruption, politicization, and outside influences. Payments to journalists to investigate or suppress certain stories continued, although no individual journalist was accused publicly of engaging in the practice. News directors and editors acknowledged their inability to halt the practice, given their own workloads and the difficulty of discovering why a given reporter opted to emphasize one aspect of a story over another, or why a particular name was omitted from a list of suspects to be made public.

The executive branch continued to make frequent use of the “Cadena Nacional,” a complete preemption of all television and radio broadcasting, including international channels seen only on cable television. Originally designed to transmit critical information during an emergency or crisis, such as Hurricane Mitch, the Cadena Nacional is used primarily to promote the supposed accomplishments of the Government, from the inauguration of infrastructure projects to the transmission of President Flores’s audience with the Pope. The Government also has considerable influence on the print media through its ability to grant or withhold official advertisements funded with public monies.

The leading newspaper in the capital of Tegucigalpa, La Tribuna, was founded by the late father of President Flores. La Tribuna is still run by his family, and it competes directly with rival publications for scarce revenues from advertising, much of which comes from the Government itself.

In March El Nuevo Dia, the smallest of the five daily newspapers, ceased publication due to rising production costs and a protracted labor dispute with its production staff.

One potentially abusive practice continued to be the granting of awards to individual reporters on “Journalists’ Day.” In May all three branches of the Government and several private organizations, including chambers of commerce, bestowed numerous awards, some accompanied by substantial sums of cash, on the “best” journalists. Rather than being tied to a specific accomplishment—a particular article or series, or even a lifetime’s body of work—most awards were granted without any published criteria to beat reporters assigned to the granting institution. Some of these awards appeared to be deserved; however, many observers viewed the awards as little more than acknowledgments by the granting institutions of perceived services rendered. One newspaper editor who regularly rotates news assignments precisely to avoid any conflict of interest acknowledged that employees objected to the rotations because the practice effectively eliminated them from award consideration each year.

Individual members of the news media suffered various forms of harassment. In February Vica television reporter Allan Montenegro lost an eye during an altercation with police following an automobile accident. Montenegro, who is suing the Security Ministry over the incident, said that a police officer struck him in the face

with the butt of a rifle after Montenegro identified himself as a reporter. In May Canal El Progreso television reporter Hernan Cubas Padilla filed a complaint with the National Human Rights Commission alleging that Deputy Johny Handal had threatened at various times to close Canal El Progreso and kill Cubas Padilla due to his reporting of alleged corrupt activities in Yoro department by Handal, deputies Jamil Hawit and Rene Ramon Robleda, and El Progreso town councilwoman Nelly Soliman. Also in May, deputy and former president of Congress Rodolfo Irias Navas struck La Prensa newspaper reporter Ramon Alberto Tejedo while Tejedo conducted a press interview with a third party.

In April Radio Progreso news director Julio Cesar Pineda Alvarado survived a drive-by shooting but was injured when a bullet struck his head; Pineda Alvarado subsequently reported having received death threats and being followed prior to the attack.

In April El Heraldo newspaper reporter Leonarda Andino filed a complaint with the National Human Rights Commission because she received a summons for publishing excerpts from a report on the judiciary by the National Human Rights Commissioner (see Section 1.e.). In July a court in San Pedro Sula ordered El Heraldo reporter Sogelia Alvarado to testify in a defamation suit filed by Supreme Court President Oscar Armando Avila Banegas against mayoral candidate Oscar Kilgore. In September a court acquitted La Prensa reporter Arnulfo Aguilar of credit card fraud, abetting the escape of a prisoner, and contempt of court; Aguilar had maintained during his trial that unnamed persons whom he was investigating for alleged corruption had generated false charges against him. In October Deputy Francisco Herrera Dominelli filed a lawsuit on behalf of his wife against La Prensa reporter Serapio Umanzor Diaz, whom Herrera Dominelli accused of defaming his wife in the course of reporting on her business activities; Umanzor Diaz avoided a prison sentence by paying a fine of \$192 (2,880 lempiras).

According to the Inter-American Press Association (IAPA), during the year television journalist Rosanna Guevara lost her position as a manager in Vica Television's news department, allegedly because she criticized President Flores. In March she reported receiving death threats over her station's political coverage.

Such attempts by government officials and unidentified assailants to intimidate journalists increasingly led both local and foreign observers to call into question the ability of the news media to report freely on sensitive topics. In May the annual report of the IAPA noted that 13 reporters had been subjected to various forms of harassment during the past decade. In October the NGO Freedom House expressed concern regarding local treatment of the news media. At its annual conference in October, the IAPA adopted a resolution that called attention to several of the harassment cases and called upon the Government to respect the freedom of the press.

In August a court absolved former army captain Billy Joya Amendola of all charges in the 1982 torture of newsman Oscar Reyes Baca and his wife, Gloria de Reyes (see Section 1.c.).

The Government respects academic freedom, and has not attempted to curtail political expression on university campuses.

b. Freedom of Peaceful Assembly and Association.—The Constitution provides for the right of peaceful assembly, and the Government generally respects it in practice.

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias (see Sections 4 and 5). Dozens of persons conducted a hunger strike in support of Sanchez for 9 days during August and September, and some 1,200 protesters seized the Mayan ruins at Copan, the country's leading tourist attraction, in September. On September 7, the police forcibly restored order to the site after 3 days of protests, causing 15 injuries (including 5 police) in the process.

Also in September, some 300 indigenous persons sought to march from Copan to Tegucigalpa in support of Sanchez; however, the Security Ministry arrested all of the marchers in order to prevent them from entering Tegucigalpa. The Supreme Court subsequently issued a writ of habeas corpus to compel the Security Ministry to release the marchers. The protests and the hunger strike ended in mid-September when the Public Ministry agreed to reinstate Sanchez on the condition that he immediately would resign his post, receiving the various severance payments provided for by the Labor Code. In November lawyers for the demonstrators filed a lawsuit against Security Minister Gautama Fonseca, which accused him of abusing his authority and violating their civil rights when he ordered their detention in September. If the courts accept the protesters' lawsuit, the Minister in theory could face criminal charges as well; the courts had not made a decision at year's end.

On December 5–6, protesters clashed with police during a demonstration in support of opposition presidential candidate Ricardo Maduro (see Section 3). Protesters attacked police with sticks and rocks; at least 12 persons were injured, including

3 journalists. Police used tear gas to break up the demonstration and arrested 20 persons.

In March the Public Ministry announced that it had declined to prosecute several dozen alleged instigators of a riot in front of the presidential offices in October 1999. The Ministry also announced that it was considering pressing charges against senior police officials who directed the police response against the alleged rioters, 44 of whom sustained a variety of injuries at the time. In October the Government made compensatory payments averaging \$1,500 (22,500 lempiras) each to the 44 persons injured during the 1999 protest, including a payment to the family of 1 individual who died of natural causes in May, and to the indigenous organization that organized the 1999 demonstration (see Section 5). The total amount of payment each victim received depended upon the type of injury suffered.

The Constitution provides for freedom of association, and the Government generally respects it in practice.

c. Freedom of Religion.—The Constitution provides for all forms of religious expression, and the Government generally respects this right in practice.

In September the Congress adopted a controversial measure requiring that, beginning in 2001, all school classes begin with 10 minutes of readings from the Bible. Parents who do not want their children to listen to the readings may notify school authorities in writing. The Education Ministry, in consultation with Christian churches, is to establish procedures to select readings, plan their implementation, and promote their distribution. However, the law does not stipulate which segments of the Bible would be used. After the vote, many legislators also questioned whether the wording of the legislation in fact made such readings mandatory. Evangelical Christians supported the law; however, lay constitutional scholars, the Roman Catholic Church, and other religious leaders opposed the measure as a violation of the constitutional separation of church and state. A legal challenge to the constitutionality of this law appeared likely at year's end.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.—Citizens enter and exit the country without arbitrary impediment, and the Government does not restrict travel within the country's borders.

The Government cooperates with the U.N. High Commissioner for Refugees, the International Office of Migrations (IOM), and other humanitarian organizations in assisting refugees. The Government provides first asylum and grants asylum or refugee status in accordance with the terms of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

There were no reports of the forced return of persons to a country where they feared persecution. On several occasions during the year, small boats piloted by persons fleeing Cuba were discovered in Honduran waters or washed ashore. In each instance, the Government provided temporary refuge to those Cubans and collaborated with the IOM and local human rights groups to interview each person to determine whether the individual had a well-founded fear of persecution. In every instance, the Government assisted those persons who expressed a desire to return to Cuba to do so, facilitated voluntary transit by others to third countries, or granted temporary residence and work permits to those who wished to remain in the country.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens last exercised the right to change their government through democratic and peaceful elections in November 1997. International observers found the elections to be free and fair.

Citizens choose a president, three vice presidents, and members of the National Congress by free, secret, direct, and obligatory balloting every 4 years. In 1997 voters for the first time were able to cast separate ballots for the president, deputies in the National Congress, and municipal leaders, making individual elected officials more representative and accountable. Voting was made easier for citizens by a change that allowed them to vote closer to their homes.

Suffrage is universal; however, neither the clergy nor members of the military or civilian security forces are permitted to vote. Any citizen born in Honduras or abroad of Honduran parentage may hold office, except for members of the clergy, the armed forces, and the police. A new political party may gain legal status by obtaining 20,000 signatures and establishing party organizations in at least half of the country's 18 departments.

In June the Congress amended the Law on Elections and on Political Organizations to permit citizens residing abroad to vote in future presidential elections. The opposition National Party charged that the ruling Liberal Party had brought the bill to a vote without prior notice and when few Nationalists were present, and asserted

that the amendment was illegal because it failed to include Congressional elections or to provide a role in overseas elections for the National Electoral Tribunal (TNE), as required by the existing law. When the Nationalists threatened to challenge the constitutionality of the amendment, the Liberals agreed to negotiate with the Nationalists over how overseas voting would be conducted; the status of this legislation and its implementation continued to be debated at year's end.

The next national elections are scheduled for November 2001; presidential primaries for the Liberal and National parties took place in December. President of Congress Rafael Pineda Ponce won the Liberal primary; Luis Cosenza, a stand-in for the original candidate Ricardo Maduro, won the National Party's primary. A major political conflict began in October after the ruling Liberals petitioned the National Electoral Tribunal (TNE) not to allow National Party presidential contender Maduro to compete in his party's primary because the Liberals questioned whether he was "Honduran by birth," a legal requirement for assuming the presidency. (Maduro was born in Panama of a Panamanian father and a Guatemalan mother, but Maduro and his mother both received official documentation of Honduran citizenship in the 1980's, through Maduro's Honduran maternal grandmother. Since that time, Maduro has served in several government positions that required "Honduran by birth" nationality.) Despite numerous accusations, an arbitration of international jurists, and presidential intervention, the TNE refused to register Maduro for the primary. At year's end, the National Party continued to express interest in reinstating Maduro as the presidential candidate, even though the question of Maduro's citizenship was not resolved.

There are no legal impediments to the participation of women or minorities in government and politics; however, they are underrepresented. One of the country's three vice presidents is a woman, as are four cabinet ministers; approximately a dozen women also serve as vice ministers or head various government agencies. Women hold 12 of 128 seats in the National Congress, and 2 of 20 Honduran seats in the Central American Parliament. The Government's Office of Women's Affairs has cabinet-level status, although the executive president of that office is not a member of the cabinet. There is one female justice on the Supreme Court.

In April the Congress enacted a Law of Gender Equality that mandates that 30 percent of all candidates nominated for public office by recognized political parties be women. Female legislators and women's groups criticized this law for not requiring full gender parity in political party slates. They also complained that, in practice, electoral slates for general elections would not meet the 30 percent threshold established by the law because the country's few female politicians might be defeated during the internal nominating processes of the political parties. The law is expected to apply to the 2001 elections.

There are few indigenous people in leadership positions in government or politics. There are no members of Congress who state that they are indigenous, but there is one indigenous alternate deputy.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operates without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperate with these groups and are responsive to their views.

Anonymous telephone callers continued to threaten human rights workers. The National Human Rights Commissioner and the leaders of the CODEH and of the COFADEH all reported receiving numerous death threats by telephone.

In 1996 the Congress ratified a presidential decree expanding the functions of the NHRC and unanimously reelected Leo Valladares to a 6-year term that is scheduled to expire on March 5, 2002. Under this decree, and in fulfillment of his expanded functions, the NHRC has free access to all civilian and military institutions and detention centers, and is supposed to perform his functions with complete immunity and autonomy. However, in April the Supreme Court filed a lawsuit against Valladares, and charged him with engaging in "corruption, extortion, and blackmail" over a report issued by the NHRC in April that exposed corruption within the judicial branch (see Section 1.e.). However, the Supreme Court later dropped its charges.

In June the NHRC announced that the Commission would close 7 of its 12 regional offices for budgetary reasons. Human rights activists charged that the Government deliberately underfinanced the NHRC to hinder its operations. Valladares observed publicly that, while the NHRC required an annual budget of \$1.8 million (27 million lempiras) to operate on a national scale, the actual NHRC budget for the year 2000 was only \$1,067,000 (16 million lempiras). Various aid grants from foreign governments to the NHRC expired earlier in the year. In December the Con-

gress passed a budget that provides the NHRC with a budget of \$1.6 million (24 million lempiras).

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias, ostensibly as part of a reorganization of the Ministry. However, indigenous groups claimed that Sanchez had been fired for investigating reports of violations of indigenous rights too diligently (see Section 5).

In March the CODEH publicly accused the INTERPOL unit in Honduras of conducting research into the CODEH's foreign information and funding networks, but did not make public any evidence to support those accusations. In July the CODEH announced that it would close four of its regional offices due to a shortfall in funding.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution bans discrimination based on race or sex. The Constitution also bans discrimination on the basis of class; however, in practice, the political, military, and social elites generally enjoyed impunity before the legal system. Members of these groups rarely were arrested or jailed; the President, cabinet ministers, and legislators all enjoy legal immunity (see Section 1.e.).

Women.—Violence against women remained widespread. The Penal Code was amended in 1997 to classify domestic violence and sexual harassment as crimes, with penalties of 2 to 4 years' and 1 to 3 years' imprisonment, respectively. In February the Pan-American Health Organization reported that 60 percent of women have been victims of domestic violence. Most such violence took place within the family. The penalties for rape are relatively light, ranging from 3 to 9 years' imprisonment. All rapes are considered public crimes, so a rapist can be prosecuted even if he marries his victim.

Under pressure from women's advocacy and reform groups, the Congress in 1997 enacted the Law Against Domestic Violence to strengthen the rights of women and increase the penalties for crimes of domestic violence. This law allows the Government to protect battered women through emergency measures, such as detaining an aggressor or separating him temporarily from the victim's home. It also imposes such penalties as a fine of \$333 (5,000 lempiras) and 4 years' imprisonment per incident.

In March the Public Ministry reported that it receives an average of 200 allegations of domestic violence each month, but that many cases remain pending because the Government has not yet created the special courts authorized by the Law Against Domestic Violence. In August the Public Ministry reported investigating 10,535 cases of spousal abuse during 1999; male spouses filed 1,267 of those cases. In September the U.N. Population Fund estimated that 8 of every 10 women suffer from domestic violence. In October the Public Ministry reported that it had received 3,000 complaints of domestic violence, averaging 35 per day, during the year.

The Government attempted to remedy this situation by working with women's groups to provide specialized training to police officials on enforcing the Law Against Domestic Violence. There are few shelters specifically maintained for battered women. The Government operates 1 shelter that can accommodate 10 women and their families. Six private centers for battered women offer legal, medical, and psychological assistance, but not physical shelter.

Sexual harassment in the workplace also continued to be a problem.

Women, who make up 51 percent of the work force, were represented in at least small numbers in most professions, but cultural attitudes limited their career opportunities. In theory, women have equal access to educational opportunities; however, family pressures often impede the ambitions of women intent on obtaining a higher education. The law requires employers to pay women equal wages for equivalent work, but employers often classify women's jobs as less demanding than those of men to justify paying them lower salaries. In July the Government created the Inter-Institutional Technical Committee on Gender to coordinate government assistance programs for women.

Some organizations have begun to offer assistance to women, principally targeting those who live in rural areas and in marginal neighborhoods of cities. For example, the Honduran Federation of Women's Associations provided home construction and improvement loans, offered free legal assistance, and lobbied the Government on women's causes. The Center for the Investigation and Promotion of Human Rights continued to operate a program to make women aware of their legal rights. Programs that provide small loans to microentrepreneurs target female clients.

Women have advanced significantly in some professions during the past several years. The HOAF and national police academies have accepted female recruits since 1998, and the first class of women to receive aeronautical training at the air force

academy graduated in 1999. In 1998 Reyna Dinora Aceituno was elected Secretary General of the Confederation of Honduran Workers (CTH), the country's second largest labor confederation. In May the capital city of Tegucigalpa hired its first female firefighter. In June and July, the Episcopal Church ordained its first three female religious ministers.

In October tens of thousands of women commemorated World Food Day by conducting demonstrations against poverty and violence in the country's major cities. Also in October, the Government announced a new program to provide "agricultural equality" for women through such measures as recognizing female land ownership separately from male spouses or family members, increasing the number of government land titles granted to women, and facilitating access to financial assistance for female agricultural workers.

Children.—Although the Government allocated 32 percent of its budget for the year to public education and health care, this was insufficient to address the needs of the country's youth. The Government provides free, universal, and compulsory education through the age of 10; however, the Government estimated that as many as 175,000 children each year fail to receive schooling of any kind, either due to insufficient financial resources, or because parents rely on their children to assist in supporting the family by working. Girls attend primary school in the same proportion as boys. In October the Government announced its intention to increase its national school capacity by 5,000 children during 2001.

Media reports indicated that up to 40 percent of children under the age of 5 years suffer from chronic malnutrition. The Government estimated that 7,000 children (40 of every 1,000) under the age of 5 die each year because of inadequate health care; to combat these deaths, in March the Health Ministry announced a 2-year program to reduce infant mortality by 25 percent.

The Government was unable to prevent the abuse of street children (see Sections 1.a. and 1.c.) or child laborers (see Section 6.d.). During the year, the Government and children's rights organizations raised their estimates of the number of street children to 10,000, only half of whom have shelter on any given day. The number of street children has increased substantially since 1998, due to Hurricane Mitch. Many street children have been molested sexually, and about 40 percent regularly engaged in prostitution.

Approximately 30 percent of the street children in Tegucigalpa and San Pedro Sula, the two largest population centers, were reported to be HIV-positive. Over 75 percent of street children found their way to the streets because of severe family problems; 30 percent simply were abandoned. Abuse of street children is a serious problem. Both the police and members of the general population engaged in violence against street children (see Sections 1.a. and 1.c.). In September police arrested the adult son of the Human Rights Commissioner for burning a child's eyelid with a cigarette. He was charged with a minor infraction. The Human Rights Commissioner publicly separated himself from his son's actions and emphasized that his son should be subject to appropriate legal action.

In May the Public Ministry reported receiving an average of 20 complaints of child abuse every week; in May UNICEF estimated that 17 percent of children have suffered some form of child abuse. In March the Tegucigalpa city administration opened 12 temporary shelters for children, with a total capacity of 240 children. In November the Government announced that it plans to open a 24-hour Street Child Attention Center in Tegucigalpa, which had not opened at year's end. The Center, working with the municipal authorities and with children's rights organizations, would initiate contact on the streets with abandoned children, meet their basic needs, then offer counseling and formal or vocational training to help reincorporate them into society.

Human rights groups implicated out-of-uniform security force personnel, vigilantes, and business leaders in many juvenile deaths (see Section 1.a.). In February Covenant House alleged that 21 children were killed and 879 children suffered various forms of mistreatment from 1994 to 1999.

The 1996 Code of Childhood and Adolescence covers the rights, liberties, and protection of children, including in the area of child labor (see Section 6.d.). It established prison sentences of up to 3 years for persons convicted of child abuse.

In September the Government sponsored its eighth annual Children's Congress in Tegucigalpa, at which children from across the country discussed issues of national interest. For the first time, several departmental capitals hosted similar meetings of local children simultaneously.

People with Disabilities.—There are no formal barriers to participation by an estimated 300,000 disabled adults in employment, education, or health care; however, there is no specific statutory or constitutional protection for them. There is no legislation that requires access by disabled persons to government buildings or commer-

cial establishments. In April the Government reactivated the National Council for the Treatment of the Disabled Minor to coordinate assistance to an estimated 800,000 disabled youths and appropriated about \$1.3 million (20 million lempiras) to fund its activities.

Indigenous People.—Some 450,000 persons, constituting 11 percent of the general population, are members of various indigenous groups. These small communities of indigenous people have little or no ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous land rights are communal. While the law permits persons to claim individual freeholding titles, this is difficult to accomplish in practice. Tribal lands often are defined poorly in documents dating back to the mid-19th century and, in most cases, lack any legal title based on modern cadastral measurements. The Government makes all decisions regarding exploitation of timber resources on indigenous lands, often over strenuous tribal objections.

The lack of clear title by indigenous groups to public lands that they occupy often leads to conflicts between such groups and various government entities. However, such disputes are equally common between the Government and nonindigenous groups, and the Government is working with various indigenous groups on management plans for public and tribal lands that they occupy. In the absence of clear land titles and unequal access to legal recourse, indigenous groups also are vulnerable to frequent usurpation of their property rights by nonindigenous farmers and cattle ranchers. Expanded coverage of the national cadastral registry, property titling, and government land registries is reducing this vulnerability.

The courts commonly deny legal recourse to indigenous groups and often show bias in favor of nonindigenous parties of means and influence. Failure to obtain legal redress frequently causes indigenous groups to attempt to regain land through invasions of private property, which usually provokes the authorities into retaliating forcefully. The Government generally is responsive to indigenous land claims; however, numerous cases remained unresolved because of conflicting claims by influential nonindigenous groups.

In 1997 after a month of nationwide protests by indigenous organizations that included a hunger strike, the Government signed a 22-point agreement with representatives of various groups that made available 9 initial land grants of about 22,000 acres each to different tribes, granted some contested land titles outright to indigenous petitioners, and set aside about \$13,000 (200,000 lempiras) in government funds for indigenous housing. The Congress also created a commission to study indigenous land claims, which often conflict with the claims of small farmers, but the commission was largely inactive. Since 1997 the Government has distributed tens of thousands of legal titles encompassing hundreds of thousands of acres of land to indigenous persons. In September the Congress appropriated about \$1.7 million (25 million lempiras) to purchase land for distribution to the indigenous Chorti community, plus an additional \$1,267,000 (19 million lempiras) in October for its general land redistribution programs. Indigenous groups nonetheless charged that the Government had failed to fulfill its commitments under the 1997 agreement.

Members of the Black Carib and Garifuna indigenous groups, backed by international supporters, objected strenuously to a proposed constitutional amendment that would permit foreigners to own and develop land for tourism within 25 miles of the country's coasts and land frontiers. The amendment was approved on its first reading in 1998 but failed to obtain a constitutionally required second approval in 1999, following an indigenous demonstration in October 1999, that led to a violent clash near the presidential offices (see Section 2.b.). The amendment appears unlikely to be considered again in the near future.

In August the Public Ministry fired Special Prosecutor for Ethnic Rights Gilberto Antonio Sanchez Chandias, ostensibly as part of a reorganization of the Ministry; however, indigenous groups claimed that Sanchez had been fired for investigating reports of violations of indigenous rights too diligently (see Sections 2.b. and 4).

Indigenous groups petitioned actively during the year for the Government to carry out more effective investigations into dozens of murders of indigenous leaders that date back to the 1970's, including the deaths in March of four Chorti men in Copan (see Section 1.a.).

In August various indigenous groups convened a First Conference of National Solidarity in Tegucigalpa in preparation for the World Conference Against Racism, to be held in South Africa under U.N. auspices in 2001.

Section 6. Worker Rights

a. The Right of Association.—Workers have the legal right to form and join labor unions; unions are independent of the Government and of political parties. Most

peasant organizations are affiliated directly with the labor movement. Unions frequently hold public demonstrations against government policies and make extensive use of the news media to advance their views. However, only about 14 percent of the work force is unionized, and the economic and political influence of organized labor has diminished in recent years.

The International Labor Organization (ILO) notes that various provisions in the law restrict freedom of association, including the prohibition of more than one trade union in a single enterprise, the requirement of more than 30 workers to constitute a trade union, and the requirement that trade union organizations must include more than 90 percent Honduran membership.

The labor movement is composed of three national labor organizations: the General Council of Workers (CGT), the Confederation of Honduran Workers (CTH), and the Unitary Confederation of Honduran Workers (CUTH).

The Constitution provides for the right to strike, along with a wide range of other basic labor rights, which the authorities respect in practice. However, the civil service code denies the right to strike to all government workers, other than employees of state-owned enterprises. The ILO has reported that federations and confederations are prohibited from calling strikes and that a two-thirds majority of the votes of the total membership of the trade union organization is required to call a strike; the ILO asserts that these requirements restrict freedom of association. Public sector health care employees conducted illegal work stoppages during the year.

A number of private firms have instituted "solidarity" associations, essentially aimed at providing credit and other services to workers and managers who are members of the associations. Representatives of most organized labor groups criticize these associations, asserting that they do not permit strikes, have inadequate grievance procedures, and neutralize genuine, representative trade unions.

In May dissident members of some 40 labor, peasant, and social organizations formed a Popular Bloc ("Bloque Popular") whose immediate goals were to pressure the Government to implement social reforms and cease its efforts to privatize inefficient state-owned enterprises. During the second half of the year, the Bloc conducted a series of nationwide, 1-day work and traffic stoppages that brought the Government, the private sector, and organized labor to the bargaining table to negotiate a national wage increase outside the formal framework of the annual minimum wage talks, which normally are held each December (see Section 6.e.).

The three national labor confederations maintain close ties with various international trade union organizations.

b. The Right to Organize and Bargain Collectively.—The law protects the rights to organize and to bargain collectively; collective bargaining agreements are the norm for companies in which workers are organized. The Labor Code prohibits retaliation by employers for trade union activity; however, it is a common occurrence. Some employers have threatened to close down unionized companies and have harassed workers seeking to unionize, in some cases dismissing them outright. The labor courts routinely consider hundreds of appeals from workers seeking reinstatement and back wages from companies that fired them for engaging in union organizing activities. However, once a union is recognized, employers actually dismiss relatively few workers for union activity. Nonetheless, such cases serve to discourage workers elsewhere from attempting to organize.

Workers in both unionized and nonunionized companies are protected by the Labor Code, which gives them the right to seek redress from the Ministry of Labor. The Ministry of Labor took action in several cases, pressuring employers to observe the code. Labor or civil courts can require employers to rehire employees fired for union activity, but such rulings are uncommon. Agreements between management and unions generally contain a clause prohibiting retaliation against any worker who participates in a strike or other union activity.

The Labor Code explicitly prohibits blacklisting; however, there was credible evidence that informal blacklisting occurred in the privately owned industrial parks, known as maquiladoras. When a union is formed, its organizers must submit a list of initial members to the Ministry of Labor as part of the process of obtaining official recognition. However, before official recognition is granted, the Ministry of Labor must inform the company of the impending union organization. The Ministry of Labor has not always been able to provide effective protection to labor organizers. There were credible reports, particularly in the export processing zone (EPZ) sector, that some inspectors had sold the names of employees involved in forming a union to companies that then dismissed union organizers before the Ministry of Labor could recognize the unions.

The same labor regulations apply in the EPZ's as in the rest of private industry. Unions are active in the Government-owned Puerto Cortes free trade zone (7 of 11 maquiladoras there are unionized), but factory owners have resisted efforts to orga-

nize the privately owned industrial parks. The Honduran Association of Maquiladores (AHM) routinely sponsors seminars and other meetings between its members and major labor groups in order to reduce potential tensions within the industry. At year's end, 54 of the country's 434 maquiladoras were unionized, and 26 of those plants operated under collective bargaining agreements.

In 1997 the AHM adopted a voluntary code of conduct governing salaries and working conditions in the industry and recognizing workers' right to organize. Although local unions were not consulted during the drafting process and have no formal role in its implementation, this code nonetheless represented a public commitment by apparel manufacturers to abide by local laws and regulations governing their industries. It provided a starting point for a dialog among the AHM, organized labor, and the Government, which formed a Tripartite Commission that meets on a monthly basis to discuss and facilitate solutions for labor problems. The AHM often serves as an informal arbiter of labor disputes between its member companies and their workforces. The attitude of the Government towards organized labor in the EPZ's is the same as in other industries.

In a number of maquiladora plants, workers have shown little enthusiasm for unionizing, since they consider their treatment, salary, and working conditions to be as good as, or better than, those in unionized plants. In the absence of unions and collective bargaining, several EPZ plants have instituted solidarity associations that, to some extent, function as "company unions" for the purposes of setting wages and negotiating working conditions. Other EPZ plants use the minimum wage to set starting salaries, and adjust wage scales by negotiating with common groups of plant workers and other employees, based on seniority, skills, categories of work, and other criteria. In November Worldwide Responsible Apparel Production (WRAP), a private sector initiative to improve working conditions in maquiladoras around the world, granted its first overseas certifications of compliance with WRAP principles to two local companies, Cross Creek de Honduras and Kellwood de Honduras.

Labor leaders accuse the Government of allowing private companies to act contrary to the Labor Code and expect the problem to continue until the Ministry of Labor is reorganized to make it more efficient. They criticize the Ministry of Labor for not enforcing the Labor Code, for taking too long to make decisions, and for being timid and indifferent to workers' needs. Industry leaders, in turn, contend that the obsolete and cumbersome Labor Code discourages foreign investment and requires significant amendment. The Ministry of Labor has sought to address these deficiencies by requesting increased funding from the Flores administration, by dismissing or transferring Ministry of Labor employees whose performance was unsatisfactory, by opening more regional offices to facilitate worker access to Ministry of Labor services, and by conducting a painstaking, ongoing review of the Labor Code within the Tripartite Commission.

A 1995 Memorandum of Understanding (MOU) between the Ministry of Labor and the Office of the United States Trade Representative calling for greater enforcement of the Labor Code has resulted in some progress. However, labor unions charge that the Ministry of Labor has not made sufficient progress towards enforcing the Code, especially in training its labor inspectors and in conducting inspections of the maquiladora industry. The Government has acknowledged that it does not yet adhere completely to international labor standards. In 1997 the country, in conjunction with other Central American nations, agreed to fund a regional program to modernize the inspection and labor management functions of all regional labor ministries. In August and September, the Government reaffirmed its commitment to abide by the terms of the 1995 MOU and to take additional steps to strengthen enforcement of the Labor Code.

Kimi de Honduras, a South Korean-owned maquiladora with a history of labor troubles, closed its doors in May and laid off over 600 employees, most of whom were women. Former Kimi employees complained that severance payments made by the company did not meet requirements stipulated by the Labor Code, but a Ministry of Labor examination of the company's calculations found Kimi's severance payments to its former workforce in order.

In July 1999, workers at Yoo Yang, another South Korean-owned maquiladora, sought to establish a union for all maquiladora workers. Both the Yoo Yang employees and the Ministry of Labor missed various deadlines stipulated in the Labor Code for the processing of the workers' petition, which the Ministry of Labor invalidated in April because the Labor Code precludes the creation of industrial unions once individual companies in a given industry become unionized. In July Yoo Yang employees submitted a new petition for recognition as a company union to the Ministry of Labor, which declined to rule definitively on the petition because of alleged irregularities contained in the workers' application for juridical recognition; in the proc-

ess, the Ministry of Labor again missed several processing deadlines for labor petitions established by the Labor Code. The irregularities were addressed, and in December the Ministry of Labor granted union status to Yoo Yang employees.

c. Prohibition of Forced or Compulsory Labor.—The Constitution and the law prohibit forced or compulsory labor, and this applies equally to children; however, there were credible allegations of compulsory overtime at EPZ plants, particularly for women, who make up an estimated 80 percent of the work force in the maquiladora sector. The legal prohibitions apply equally to children, and there were no official reports of such practices in the area of child labor (see Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment.—The Constitution and the Labor Code prohibit the employment of minors under the age of 16, except that a child who is 15 years of age is permitted to work with parental and Ministry of Labor permission. The Children's Code prohibits a child of 14 years of age or younger from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the child has finished, or is finishing, his compulsory schooling. The Ministry of Labor grants a limited number of work permits to 15-year-old children each year.

The Ministry of Labor cannot enforce effectively child labor laws outside the maquiladora sector, and violations of the Labor Code occur frequently in rural areas and in small companies. According to the Ministry of Labor, human rights groups, and children's rights organizations, an estimated 350,000 children work illegally. Significant child labor problems exist in family farming, agricultural export (including the melon and coffee industries), and small scale services and commerce. Many children also work in the construction industry, on small family farms, as street vendors, or in small workshops to supplement the family income. Boys between the ages of 13 and 18 work in the lobster and shrimp industries, where they provide support to divers from boats while they learn the trade. Hurricane Mitch exacerbated existing child labor problems in every sector of the economy.

The employment of children under the legal working age in the maquiladora sector may occur, but not on a large scale. (Younger children sometimes obtain legitimate work permits by fraud or purchase forged permits.) The maquiladoras in recent years have raised their minimum employment age, and some hire only at age 18 or above, reducing the number of legal job opportunities available to persons under 18 years of age.

In September 1998, the Government created the National Commission for the Gradual and Progressive Eradication of Child Labor, which includes government ministries, official family welfare agencies, and local NGO's. In August the National Commission sponsored a public seminar on child labor in the country to assist the Commission in developing a national plan to combat this problem.

Forced or compulsory labor is prohibited, including that performed by children, and there were no reports of its use (see Section 6.c.).

e. Acceptable Conditions of Work.—In the aftermath of Hurricane Mitch in December 1998, labor leaders agreed to forgo the customary January increase in the minimum wage in return for a pledge by business leaders to control price increases for basic goods and services. In June 1999, the Roman Catholic Church arbitrated a 25 percent increase in the minimum wage that the Government implemented in July 1999; an additional 8 percent increase took effect in January. The minimum wage in effect prior to July 1999 served as the basis for both increases. Daily pay rates vary by geographic zone and the sector of the economy affected; urban workers earn slightly more than workers in the countryside. The lowest minimum wage occurs in the nonexport agricultural sector, where it ranges from \$2.33 to \$2.96 (35.00 to 44.50 lempiras) per day, depending on whether the employer has more than 15 employees. The highest minimum wage is \$3.89 (58.30 lempiras) per day in the export sector. All workers are entitled to an additional month's salary in June and December of each year. The Constitution and the Labor Code stipulate that all labor must be paid fairly; however, the Ministry of Labor lacks the personnel and other resources for effective enforcement. The minimum wage is insufficient to provide a decent standard of living (above the poverty line) for a worker and family.

Under the threat of a nationwide work stoppage by the country's three labor confederations (see Section 6.a.), in October the private sector agreed to a monthly wage increase of \$23.33 (350 lempiras) for workers earning up to \$116.60 (1,749 lempiras) per month. A monthly increase of \$10 (150 lempiras) would be retroactive to October 1, and an additional monthly increase of \$13.33 (200 lempiras) is scheduled to take effect on February 1, 2001. This agreement excluded workers in the nonexport agricultural sector, who instead would receive a monthly wage increase of \$10 (150 lempiras) as of February 1, 2001.

Under this agreement, workers earning between \$140 (2,100 lempiras) and \$400 (6,000 lempiras) per month would receive an additional wage increase of \$23.33 (350 lempiras) as of April 1, 2001. This wage increase excluded: Workers receiving a salary increase equivalent to, or greater than, \$23.33 (350 lempiras) through either an individual contract or a collective bargaining agreement taking effect 3 months prior to April 1, 2001; those paid by piecework or based on productivity; microenterprises, agricultural firms, or ranches employing 15 or fewer workers; and workers in medicine or petroleum product sales whose utility margins are regulated by the Government.

This agreement also incorporated various social commitments by the Government, including the establishment of an Economic and Social Council within which the Government, the private sector, and labor and social groups would debate wages and other labor issues, as well as national social policy. The Congress enacted legislation implementing this agreement in December, which obviated any need to hold the formal talks on increasing the minimum wage that had been planned for December. The CTH, which initially opposed the terms of this agreement, conducted a protest strike during the first week of October that only resulted in some success along the country's North Coast.

The law prescribes a maximum 8-hour workday and a 44-hour workweek. There is a requirement of at least one 24-hour rest period every 8 days. The Labor Code provides for a paid vacation of 10 workdays after 1 year, and of 20 workdays after 4 years. However, employers frequently ignored these regulations due to the high level of unemployment and underemployment and the lack of effective enforcement by the Ministry of Labor. Foreign workers enjoy equal protection under the law, although the process for a foreigner to obtain a work permit from the Ministry of Labor is cumbersome.

The Ministry of Labor is responsible for enforcing national health and safety laws, but does not do so consistently. The law requires that employers provide a safe and healthy work environment for their employees, but the Ministry of Labor does not have the resources to enforce this law. The law also requires that employers provide a safe and healthy work environment for their employees, but the Ministry of Labor does not have the resources to enforce this law.

untry

narcotics. An investigation of those charges was ongoing at year's end. In January Canadian authorities arrested dozens of small-time Central American drugdealers including many Honduran minors. In February the press reported that Honduran authorities were working to repatriate those minors.

In February a judge in San Pedro Sula, Alexa Cubero, was arrested for allegedly kidnaping six minors with intent to sell them to persons unknown; this case had not come to trial at year's end. In July the Government announced that it was working with the Government of Mexico to repatriate over 200 Honduran minors working as prostitutes in southern Mexico. In September a local children's rights group charged that 498 children had been reported missing since 1986, including 22 children during the year. The group asserted that local kidnapers receive an average of \$133 (2,000 lempiras) per child, each of whom subsequently is sold abroad for \$10,000 to \$15,000.

The Government does not provide economic aid to victims or potential victims of such crimes. However, in March the Government inaugurated two centers in Tegucigalpa and San Pedro Sula to assist citizens deported from other countries to relocate in Honduras. With the assistance of several international organizations, the Government hoped to be able to reinsert up to 4,000 persons into society each year.

JAMAICA

Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; a third major party was established in late 1995. Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in December 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF—army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and supporting the JCF. The JDF has no mandate to maintain law and order and no powers of arrest. The Ministry of National Security and Justice oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

The economy is based on primary products (bauxite and alumina, sugar, bananas), services (tourism, finance), and light manufacturing (garment assembly). The Government promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes painful program of structural adjustment. The trade-dependent economy contracted (by 0.5 percent) for the fourth consecutive year in 1999. In 1999 annual per capita income was \$2,531, but there is a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed extrajudicial killings and beatings and carried out arbitrary arrests and detentions.

Although the Government moved to punish many of those police involved, continued impunity for police who commit abuses remains a problem. Police investigations often were hampered by lack of witnesses, and bottlenecks in the judicial systems cause long delays in resolution of criminal cases. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. The judicial system was overburdened, and lengthy delays in trials were common. There were allegations that citizens' privacy rights were infringed upon. Violence and economic discrimination against women remained problems. There were cases of societal discrimination against disabled persons and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor is a problem. Mob violence against those suspected of breaking the law remains a problem.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing.—There were no reports of political killings during the year.